Harry Murphy, John F. Reilly, W. S. Lyon, G. R. Estee, George F. Ball, J. W. Villemaire, W. C. Read, Richard Collins, H. N. Burbank, F. H. Follansbee, C. H. Wright, and A. W. Flanders, railway postal clerks in New Hampshire, favoring an increase of salary of postal clerks and in support of House bill 18895; to the Committee on the Post Office and Post Roads.

SENATE.

WEDNESDAY, *January 10, 1917.*

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, lend Thine aid to these Thy servants in this honorable Senate, that all their work, begun, continued, and ended in Thee, may redound to the honor and glory of Thy name and the advancement of the cause of truth and righteousness among men. We ask for Christ's sake. Amen.

The PRESIDENT pro tempore. The Secretary will read the Journal of the proceedings of the previous day.

Mr. SMOOT. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	Martine, N. J.	Smith, S. C.
Beckham	Gallinger	Nelson	Smoot
Brady	Gronna	Norris	Sterling
Brandegee	Husting	Oliver	Sutherland
Bryan	James	Overman	Swanson
Chamberlain	Johnson, Me.	Page	Thomas
Chilton	Jones	Pittman	Tillman
Clapp	Kenyon	Ransdell	Wadsworth
Clark	Kern	Robinson	Walsh
Colt	Kirby	Saulsbury	Watson
Culberson	Lane	Shafroth	Williams
Curtis	Lea, Tenn.	Sheppard	Works
Dillingham	Lodge	Sherman	
Fernald	McLean	Smith, Ga.	

Mr. WALSH. I have been requested to announce that the Senator from Maryland [Mr. LEE] is detained from the Senate on account of illness.

Mr. CHILTON. My colleague, the Senator from West Virginia [Mr. GOFF], is absent on account of illness.

Mr. MARTINE of New Jersey. I rise to announce the absence of the Senator from Oklahoma [Mr. GORE] on account of illness, and to state that the Senator from California [Mr. PHELAN] is absent on official business.

Mr. CLARK. I desire to announce the unavoidable absence of my colleague [Mr. WARREN] from the city. I will let this announcement stand for the day.

Mr. NORRIS. I wish to announce that the Senator from Michigan [Mr. TOWNSEND] is detained from the Senate on account of sickness in his family.

The PRESIDENT pro tempore. Fifty-four Senators have answered to their names. A quorum is present. The Secretary will read the Journal of yesterday's proceedings.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. OVERMAN, and by unanimous consent, the further reading was dispensed with and the Journal was approved.

PETITIONS AND MEMORIALS.

Mr. ROBINSON presented petitions of sundry citizens of Arkansas, praying for an increase in the salaries of postal employees, which were referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Socialist Lodge of Pine Bluff, Ark., remonstrating against the enactment of legislation to change the postage rate on second-class matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Patriotic League of Porto Rican Students, of San Juan, Porto Rico, praying for the establishment of a civil government for the island of Porto Rica, which was ordered to lie on the table.

He also presented a petition of the board of education of Lincoln, Nebr., praying that surplus fees received from naturalization sources be used for the education of immigrants, which was ordered to lie on the table.

He also presented a petition of the American Association of State Highway Officials, of St. Louis, Mo., praying for the completion of the topographic map of the United States, which was referred to the Committee on Expenditures in the Interior Department.

He also presented a petition of the board of temperance, prohibition, and public morals of the Methodist Episcopal Church of Washington, D. C., praying for the enactment of legislation to prohibit the transmission of liquor advertisements through the mails, which was ordered to lie on the table.

Mr. HUSTING presented memorials of sundry citizens of Wisconsin, remonstrating against the enactment of legislation to prohibit the transmission of liquor advertisements through the mails, which were ordered to lie on the table.

Mr. MYERS presented petitions of sundry citizens of Montana, praying for the enactment of legislation to provide for the sinking of artesian wells on the public domain, which were ordered to lie on the table.

Mr. STONE presented memorials of sundry citizens of Missouri, remonstrating against the enactment of legislation to prohibit the transmission of liquor advertisements through the mails, which were ordered to lie on the table.

Mr. LODGE presented petitions of sundry citizens of Worcester, Provincetown, Concord, Boston, Amherst, and New Bedford, all in the State of Massachusetts, praying for national prohibition, which were ordered to lie on the table.

Mr. OLIVER presented memorials of sundry citizens of Pennsylvania, remonstrating against the enactment of legislation to prohibit the transmission of liquor advertisements through the mails, which were ordered to lie on the table.

He also presented a petition of sundry citizens of Somerset County, Pa., praying for the enactment of legislation to found the Government of the United States on Christianity, which was referred to the Committee on the Judiciary.

Mr. BORAH presented petitions of sundry citizens of Idaho, praying that Government aid be given the so-called Dubois reclamation project, which was referred to the Committee on Irrigation and Reclamation of Arid Lands.

Mr. POINDEXTER presented the petition of Robert J. Clendenin and sundry citizens of Colfax, Wash., praying for an increase in the salaries of postal employees, which was referred to the Committee on Post Offices and Post Roads.

Mr. THOMPSON presented a memorial of the students and faculty of the Dickinson County High School, of Chapman, Kans., remonstrating against any increase in rate of postage on letters and newspapers, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Seventh Kansas Congressional District Rural Letter Carriers' Association, of Pratt, Kans., praying for the enactment of legislation to place the compensation of rural carriers on a more equitable basis, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of sundry citizens of Paola, Kans., praying for the enactment of legislation to grant pensions to the widows and minor children of Spanish War Veterans, which was ordered to lie on the table.

He also presented a petition of Sunflower Council, No. 31, United Commercial Travelers, of Salina, Kans., praying for a revision of postal rates, which was referred to the Committee on Post Offices and Post Roads.

Mr. PHELAN presented a petition of the Sacramento (Cal.) Branch of the Railway Mail Association, praying for the enactment of legislation to provide for the retirement of superannuated civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. NORRIS. I present resolutions adopted at the last annual meeting of the Nebraska State Irrigation Association, held at Bridgeport, Nebr., in December, 1916. I ask that they be printed in the RECORD and be referred to the Committee on Public Lands.

There being no objection, the resolutions were referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

Resolutions adopted by the Nebraska State Irrigation Association at its December, 1916, annual meeting, held in Bridgeport, Nebr.

Whereas it has become an open secret that the Government has taken over the extra carrying capacity of the Tri-State Canal for the purpose of extending said canal to cover the territory lying under the original Government survey of the North Platte project and east of the present terminus of both the Tri-State and the Government Canals; and

Whereas many homesteaders continue to occupy their holdings in patient anticipation of the coming of the water, not a few of whom have reached an age when the loss of a year is absolutely irretrievable: Therefore, be it

Resolved, That it is the sense of this association that the Reclamation Service should push the construction of the project to speedy completion; and be it further

Resolved, That we urgently request our Senators and Representatives in Congress to use their best endeavors to have included in the next appropriation bill the estimated amount required for the construction of the proposed extension of said canal.

Resolutions adopted by the Nebraska State Irrigation Association at its December, 1916, annual meeting, held in Bridgeport, Nebr.

Whereas the North Platte Valley is the heart of the largest irrigated territory of Nebraska, and is one of the richest agricultural regions of the United States; and

Whereas there is now established in the upper stretches of the valley a United States experimental farm under the joint control of the Federal Government and the regents of the University of Nebraska; and

Whereas there is no agricultural school in the United States where practical irrigation is taught, nor is there a school of agriculture and mechanic arts in western Nebraska: Therefore, be it

Resolved by the Nebraska State Irrigation Association, That we most respectfully and earnestly request the members of the legislature at its session in 1917 to appropriate a sum sufficient for and to establish in conjunction with the United States experimental farm located in Scottsbluff County a school of agriculture, irrigation, and mechanic arts; and be it further

Resolved, That we urge upon our Representatives in Congress to secure the aid of the Reclamation Service in the establishment and conduct of such a school.

—

Resolution adopted by the Nebraska State Irrigation Association at its December, 1916, annual meeting, held in Bridgeport, Nebr.

Whereas a contract has been made between the United States Reclamation Service and the water users under the North Platte project, whereby storage rights may be purchased from the Pathfinder Reservoir and paid for in 20 annual installments; and

Whereas certain other ditches in the North Platte Valley have purchased water under contract from the Pathfinder Reservoir to be paid for in 10 annual installments: Now, therefore, be it

Resolved, That it is the sense of this association that the Reclamation Service should permit those ditches which have thus purchased, as well as such other ditches as may wish to purchase water in a similar manner, to pay for the same on the same terms and time as has been given to the users under the North Platte project.

VOLUNTEER OFFICERS' RETIRED LIST.

Mr. SMITH of Georgia. I desire to present an explanation by the Chief of the Finance Division, Bureau of Pensions, of the Interior Department, dated January 6, 1917, of the manner in which he made up a statement as to the cost incident to the volunteer officers' retired-list bill, together with a letter of the Secretary of the Interior giving the data. I ask that it be printed in the RECORD.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
BUREAU OF PENSIONS,
Washington, January 6, 1917.

Mr. COMMISSIONER: I have before me a copy of the CONGRESSIONAL RECORD of Tuesday, January 2, 1917.

In view of the statements reported therein as made on the floor of the United States Senate in debate on the bill (S. 392) to create a "Civil War volunteer officers' retired list," affecting the estimate on the cost of said bill prepared in this division having charge of the pension roll, and communicated to Hon. James Hay, chairman of the Military Affairs Committee of the House of Representatives, by Secretary's letter dated March 30, 1916, I deem it pertinent to call your attention to the actual measures taken to ascertain the facts and figures presented in said estimate.

Several months prior to its preparation it was determined, in anticipation of the further consideration of measures for the retirement of Civil War volunteer officers, to prepare a separate roll of all of such officers borne on the pension roll. The consolidation of the roll in the bureau greatly facilitated this undertaking, and it was deemed necessary from the fact that estimates theretofore furnished for some time had as their basis only the reports that had been furnished a number of years previously by the pension agents—then in charge of the pension roll—when bills of like tenor were first introduced.

Furthermore, it was known that the act of May 11, 1912, granting pensions for age and length of service had greatly increased the number of officers on the roll by bringing to light many cases of subsequent service under officers' commissions by pensioners theretofore borne on the roll as privates or noncommissioned officers, it being the practice in allowance under the general laws to specify only the rank held at time of incurrence of the pensioned disability. The separate roll of officers so prepared consists of a card for each officer, containing all essential information as to rank, length of service, age, rate of pension, etc., and has been kept current by withdrawal of the cards of deceased officers as the deaths are reported and by addition of data affecting retirement cost as given in new allowances of pension to such officers from time to time.

The so-called estimate of March 30, 1916, is therefore entitled to consideration as a tabulation on the basis of the actual relevant conditions shown on the pension roll at the close of the month of February, 1916.

It is further to be noted that the separate officers' roll thus kept current carried on November 30, 1916, a total of 12,489 officers of all ranks, Army and Navy, who had served six months and over, and 582 officers who had served for periods of less than six months. On that date the total of survivors of the Civil War, officers and men, was 350,648, showing 1 officer in every 28.8 survivors, or a ratio of 1 officer to 27.8 enlisted men, not counting the 582 officers who served for periods of less than six months. On the same date the total of pensioners of all classes on the roll was 736,283, which yields a ratio of 1 officer to be benefited by the proposed retirement legislation to every 58 pensioners, including widows etc.

I find no record of information given Col. C. R. E. Koch, or other person, from an inspection of several thousand pension certificates or cases drawn promiscuously from the bureau files or otherwise, to show that out of every 55 pensioners on the roll 1 was an officer. However that may be, there can be no question as to the conclusiveness of the figures above given, as they represent the actual condition of the entire roll of pensioners living on the date specified, and not a mere haphazard percentage thereof. They show, furthermore, that the stated ratio of 1 officer to 54 privates is more nearly applicable to pensioners of all classes of all wars and the Regular Establishment than to the number of survivors of the Civil War.

The discussion over the departmental estimates given upon the Sherwood dollar-a-day bill, which did not become a law, and the Senate substitute proposition, which became a law on May 11, 1912, appears to have left the impression that the cost of the act of May 11, 1912, for the first year was $20,800,000, as compared with a departmental estimate of $22,000,000.

I invite your attention, in this connection, to an estimate prepared here on the basis of actual expenditures, and which was embodied in your statement before a subcommittee of the House Committee on Appropriations on January 26, 1914, giving the cost of the act of May 11, 1912, for the first fiscal year after its passage as $27,000,000. The excess in this amount over the estimated cost is largely accounted for by the employment of some 300 temporary clerks for a large part of the year to expedite the allowance of the claims presented under said act.

A copy of the Secretary's letter of March 30, 1916, to Hon. James Hay, chairman of the House Committee on Military Affairs, referred to in the debate, is furnished herewith.

Very respectfully,

W. N. CAMPBELL,
Chief of Finance Division.

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DEPARTMENT OF THE INTERIOR,
Washington, March 30, 1916.

Hon. JAMES HAY,
Chairman Committee on Military Affairs,
House of Representatives.

MY DEAR MR. HAY: I beg to submit herewith, pursuant to your request, a tabulated statement prepared from data supplied by the pension roll, showing the number of officers and the annual cost involved in legislation as proposed by bill H. R. 386, to create a Civil War volunteer officers' retired list, as follows:

OFFICERS WHO SERVED 2 YEARS AND OVER.

Rank.	Number.	Active pay.	Proposed retired pay.	Total annual retired pay.	Annual pension to be relinquished.
Brigadier general	7	$6,000.00	$1,800.00	$12,600.00	$2,880.00
Colonel	76	4,000.00	1,800.00	136,800.00	30,408.00
Lieutenant colonel	209	3,500.00	1,750.00	365,750.00	76,128.00
Major	424	3,000.00	1,500.00	636,000.00	151,632.00
Captain	2,872	2,400.00	1,200.00	3,446,400.00	995,940.00
First lieutenant	3,977	2,000.00	1,000.00	3,977,000.00	1,345,812.00
Second lieutenant	2,415	1,700.00	850.00	2,052,750.00	808,821.00

OFFICERS WHO SERVED 1 YEAR AND LESS THAN 2 YEARS.

Colonel	13	$4,000.00	$900.00	$11,700.00	$4,332.00
Lieutenant colonel	33	3,500.00	875.00	28,875.00	12,396.00
Major	66	3,000.00	750.00	49,500.00	20,298.00
Captain	519	2,400.00	600.00	311,400.00	157,596.00
First lieutenant	822	2,000.00	500.00	411,000.00	239,979.00
Second lieutenant	797	1,700.00	425.00	338,725.00	227,289.00

OFFICERS WHO SERVED 6 MONTHS AND LESS THAN 1 YEAR.

Colonel	5	$4,000.00	$450.00	$2,250.00	$1,290.00
Lieutenant colonel	10	3,500.00	437.50	4,375.00	2,700.00
Major	29	3,000.00	375.00	10,875.00	7,827.00
Captain	212	2,400.00	300.00	63,600.00	54,480.00
First lieutenant	106	2,000.00	250.00	26,500.00	23,712.00
Second lieutenant	6	1,700.00	212.50	1,275.00	1,008.00

Total number of officers	12,598
Total annual retired pay	$11,887,375
Total pension to be relinquished	$4,164,528
Annual cost of retirement as proposed by the bill	$7,722,847

Naval officers are included in the above tabulation by relative rank.

There were on the pension roll on February 29, 1916, a total of 13,534 Regular and volunteer officers who served six months or longer in the Civil War. The difference of 936 between that number and the number given in the table represents those who are in receipt of pension in excess of what they might obtain as retired pay under the provisions of the bill.

No estimate can be given of the additional cost involved by the provision for maximum retired pay, regardless of length of service, to officers who lost an eye, an arm, or a leg, or were discharged by reason of wounds, etc., without a tabulation by disabilities as shown in their claims, which has not been undertaken because of the time and labor that would be involved.

The letter of Hon. JOHN E. RAKER addressed to you under date of the 20th instant and copy of bill received therewith, on which is indorsed the request for the above information, are herewith returned.

Very truly, yours,

ANDRIEUS A. JONES,
Acting Secretary.

REPORTS OF COMMITTEES.

Mr. LANE, from the Committee on Fisheries, to which was referred the bill (H. R. 15617) to establish fish-hatching and fish-cultural stations in the States of Alabama; California; Louisiana; Florida; Georgia, South Carolina, or North Carolina; Maryland or Virginia; Oregon or Washington; Texas; Oklahoma; Illinois; Washington; Arizona; New Mexico; Michigan; Idaho; Missouri; Pennsylvania, Delaware, or New Jersey; and Minnesota, reported it with amendments and submitted a report (No. 911) thereon.

Mr. MYERS, from the Committee on Military Affairs, to which was referred the bill (S. 6251) to remove the charge of desertion from the military record of John F. Kelly, reported it with amendments and submitted a report (No. 912) thereon.

WINTON AGAINST AMOS.

Mr. ASHURST. I report back favorably without amendment from the Committee on Indian Affairs Senate resolution 309. I

submit a report (No. 916) thereon. I ask for the immediate consideration of the resolution. First let the resolution be read.

The PRESIDENT pro tempore. The resolution will be read.

The Secretary read the resolution, as follows:

Resolved, That the Court of Claims is hereby requested to report to the Senate what facts have been found in the case of Charles F. Winton and others against Jack Amos, what facts are still in controversy according to the contention of the parties, including all requests for finding of fact made or filed during the present term, and the action of the court thereon.

Mr. CLARK. Let the report be read.

The PRESIDENT pro tempore. The reading of the report is called for, and it will be read.

The Secretary read the report this day submitted by Mr. ASHURST, as follows:

The Committee on Indian Affairs, to whom was referred the Senate resolution 309, having investigated the same, report it favorably without amendment and recommend its passage.

The case of Winton *v.* Amos was sent to the Court of Claims in 1906, and it is desirable for the Committee on Indian Affairs to know its present status with a view to some disposition that will bring the subject matter to a conclusion, as there is a lien pending by the act of Congress of 1908 on the Indian land, which affects injuriously the selling price of the land. It is desirable that this lien be terminated without delay. The findings appear to have been made and printed and various appeals perfected, so that the records of matters desired are all easily available.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

Mr. CLARK. I should like to ask the Senator from Arizona if this case has as yet been concluded as far as the Court of Claims is concerned?

Mr. ASHURST. My information is that it has not.

Mr. CLARK. Does the Senator think we ought to ask for a report on a partial hearing or determination of the case?

Mr. ASHURST. I do not hear the Senator clearly.

Mr. CLARK. I understand from the Senator that this is a case pending before the Court of Claims in which that court has not arrived at any conclusion. I asked the Senator if he thought it wise to ask the Court of Claims to report to us on a partial hearing or determination of the case.

Mr. ASHURST. There are two views in the committee.

Mr. CLARK. It is nothing that I am concerned in, of course, except in the orderly transaction of business.

Mr. ASHURST. One view is that the case has been concluded and the other view is that it has not been concluded. The committee wants the information as to what are the facts and it can then form its own judgment as to the situation.

The resolution was considered by unanimous consent and agreed to.

TORRENS SYSTEM OF LAND TITLES (S. DOC. NO. 675).

Mr. CHILTON. I report favorably from the Committee on Printing a resolution (S. Res. 311). I desire to explain that it simply authorizes the printing of the manuscript of what is known as the Torrens system of land-title registration. It has been fully considered by the Committee on Printing and I ask unanimous consent for the immediate consideration of the resolution.

The resolution was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the manuscript submitted by the Senator from Virginia [Mr. MARTIN] on December 18, 1916, entitled "Uniform land registration act, adopted by the National Conference of Commissioners on Uniform State Laws and the American Bar Association," be printed as a Senate document.

FEDERAL FARM-LOAN ACT (S. DOC. NO. 500).

Mr. FLETCHER. I report favorably from the Committee on Printing a resolution (S. Res. 308).

The resolution was agreed to, as follows:

Resolved, That there be printed 13,500 additional copies of Senate document No. 500, Sixty-fourth Congress, first session, entitled "Federal farm-loan act," for the use of the Senate document room.

JAMES ANDERSON.

Mr. CHAMBERLAIN. From the Committee on Military Affairs I report back favorably without amendment the bill (H. R. 1093) for the relief of James Anderson and I submit a report (No. 914) thereon. I call the attention of the Senator from Kansas [Mr. CURTIS] to it.

Mr. CURTIS. I ask unanimous consent for the consideration of the bill. A similar bill passed the Senate last March. When it reached the House it was referred to the committee, and in the meantime the House passed a similar bill which had been reported from the House committee without taking action upon the Senate bill. Action on this bill is desired, so that a bill which has passed both the House and the Senate may become a law. It is to correct the military record of a man who served three years and was severely wounded in August, 1863, and failed to complete his service because of wounds received in the line of duty.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. SMITH of Georgia. What is the request?

The PRESIDENT pro tempore. The Senator from Kansas requests the immediate consideration of a bill which the Secretary will read.

The Secretary read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws James Anderson, who was a private in Company A, Cass County Regiment Missouri Home Guards, and Company A, Second Battalion Missouri State Military Cavalry, and Company F, Fourteenth Regiment Kansas Volunteer Cavalry, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a member of the last-mentioned company and regiment on the 19th day of December, 1864: *Provided*, That no pension shall accrue prior to the passage of this act.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BOUNDARY LINE, SALMON BAY, WASH.

Mr. CHAMBERLAIN. From the Committee on Military Affairs I report back favorably with amendments the bill (S. 6807) fixing and establishing a boundary line between the property of the United States of America, on Salmon Bay, State of Washington, and the property of Betterton-Morgan Co. (Incorporated), a corporation, giving authority and providing for the conveyance of property in connection therewith, and for other purposes, and I submit a report (No. 915) thereon.

Mr. JONES. Mr. President, the bill reported by the chairman of the Committee on Military Affairs [Mr. CHAMBERLAIN] is one of purely local character and is of some urgency. We are very anxious to get the bill passed, and I therefore ask unanimous consent for its present consideration.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill which had been reported from the Committee on Military Affairs with amendments.

The first amendment of the Committee on Military Affairs was, on page 2, line 2, after the name "Company," to strike out "(Incorporated)" and insert "Inc.," so as to read:

There there be, and there hereby is, fixed and established a boundary line between lots 1 to 5, both inclusive, in block 6 of Seattle tidelands, Seattle, King County, Wash., the property of the United States of America, and that part of Government lot 6 in section 11, township 25 north, of range 3 east, Willamette meridian, King County, State of Washington, adjacent to and abutting upon said tideland lots and owned by the Betterton-Morgan Co., Inc.

The amendment was agreed to.

The next amendment was, in section 2, page 2, line 20, after the word "Company," to insert "Inc.," so as to read:

SEC. 2. That for the purpose of preserving and maintaining the superficial area of said tideland lots, and as one of the conditions upon which said boundary line is fixed and established, the Betterton-Morgan Co., Inc., be, and it is hereby, required to convey to the United States of America, by warranty deed, the following-described tract or parcel of real estate situated in said Government lot 6, Seattle, King County, Wash.

The amendment was agreed to.

The next amendment was, on page 3, line 17, after the word "feet," to insert a comma and the words "more or less," so as to read:

Beginning at a point 160.315 feet south from the harbor line in Salmon Bay, King County, State of Washington, and 14.26 feet east of the west line of Government lot 6 in section 11, township 25 north of range 3 east, Willamette meridian, which is the true point of beginning; thence running easterly 160.315 feet from and parallel to the harbor line in Salmon Bay, King County, Wash., as established by the State of Washington, a distance of 178.48 feet to Salmon Bay; thence westerly along the south line of Salmon Bay to the west line of lot 1 in block 6, Seattle tidelands; thence south along said west line of said lot 1 produced a distance of 20.315 feet to the point of beginning; said parcel of land containing an area of 2,777 square feet, more or less.

The amendment was agreed to.

The next amendment was, in section 3, page 3, line 18, after the word "That," to insert "upon the release and discharge of the United States by the Betterton-Morgan Co., Inc., of all claims of any kind or character whatsoever which have arisen or may hereafter arise against the United States because of damage or injury to property of said Betterton-Morgan Co., Inc., contiguous to block 6 Seattle tidelands, Seattle, King County, Wash., occasioned by improvements made by the United States in the Salmon Bay waterway."

The amendment was agreed to.

The next amendment was, in section 3, page 3, line 22, after the word "Company," to strike out "(Incorporated)" and insert "Inc.," so as to read:

SEC. 3. That the Secretary of War be, and he hereby is, authorized and directed, for and on behalf of the United States of America, and in connection with the establishment of said boundary line, to convey by quitclaim deed to said Betterton-Morgan Co., Inc., the following-described tract or parcel of land situated in the county of King, State of Washington.

The amendment was agreed to.

The next amendment was, in section 3, page 4, line 18, after the word "less," to insert:

Provided, That all expenses connected with the conveyance of the within described tracts or parcels of land, including the recordation of the necessary instruments, shall be defrayed by the Betterton-Morgan Co., Inc.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill fixing and establishing a boundary line between the property of the United States of America, on Salmon Bay, State of Washington, and the property of the Betterton-Morgan Co., Inc., a corporation, giving authority and providing for the conveyance of property in connection therewith, and for other purposes."

WILLIAM H. WOODS.

Mr. OWEN. From the Committee on Indian Affairs, I report back favorably without amendment the bill (H. R. 10007) for the relief of William H. Woods, and I submit a report (No. 913) thereon. The bill provides for the payment to the beneficiary of the sum of $152.21 out of the Choctaw and Chickasaw funds. The bill has already passed the House, and I ask for its present consideration.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Oklahoma?

There being no objection, the bill was considered as in Committee of the Whole.

Mr. VARDAMAN. Mr. President, will the Senator from Oklahoma explain the purport of the bill?

Mr. OWEN. The bill provides that $152.21 shall be taken out of the Choctaw and Chickasaw funds to pay one of the assistant attorneys in Oklahoma for expenses incurred. It is recommended by the Secretary of the Interior. The bill has passed the House of Representatives and has been favorably reported by the Committee on Indian Affairs of the Senate this morning.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHANGE OF REFERENCE.

Mr. FLETCHER. Mr. President, the bill (S. 7777) to provide for constructing a fish ladder in Salmon River, in Custer County, Idaho, was introduced yesterday by the Senator from Idaho [Mr. BORAH] and referred to the Committee on Commerce. The bill pertains to fishery matters and should properly go to the Committee on Fisheries. I therefore ask that the Committee on Commerce be discharged from the further consideration of the bill, and that it be referred to the Committee on Fisheries.

The PRESIDENT pro tempore. If there be no objection to the request, it is so ordered. The Chair hears none.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. POMERENE:

A bill (S. 7779) to authorize the change of name of the steamer *Frank H. Peavey* to *William A. Reiss* (with accompanying paper);

A bill (S. 7780) to authorize the change of name of the steamer *Frank T. Heffelfinger* to *Clemens A. Reiss* (with accompanying paper);

A bill (S. 7781) to authorize the change of name of the steamer *George W. Peavey* to *Richard J. Reiss* (with accompanying paper); and

A bill (S. 7782) to authorize the change of name of the steamer *Frederick B. Wells* to *Otto M. Reiss* (with accompanying paper); to the Committee on Commerce.

By Mr. ROBINSON:

A bill (S. 7783) granting a pension to Philip S. Herron; to the Committee on Pensions.

By Mr. LODGE:

A bill (S. 7784) granting a pension to Rufus H. Hopkins with accompanying papers); to the Committee on Pensions.

By Mr. BECKHAM:

A bill (S. 7785) granting a pension to James G. Rollins; to the Committee on Pensions.

By Mr. POINDEXTER:

A bill (S. 7786) granting an increase of pension to Simeon L. Coen (with accompanying papers); to the Committee on Pensions.

By Mr. BRADY:

A bill (S. 7787) granting an increase of pension to James P. Taylor (with accompanying papers); to the Committee on Pensions.

By Mr. McCUMBER:

A bill (S. 7788) granting a pension to Abbie L. Lockwood (with accompanying papers); and

A bill (S. 7789) granting an increase of pension to Delia Stuart (with accompanying papers); to the Committee on Pensions.

By Mr. FERNALD:

A bill (S. 7790) granting a pension to Emma E. Barrett (with accompanying papers);

A bill (S. 7791) granting a pension to Mary E. Finson (with accompanying papers);

A bill (S. 7792) granting an increase of pension to James H. Drown (with accompanying papers);

A bill (S. 7793) granting an increase of pension to Charles F. Wellman (with accompanying papers); and

A bill (S. 7794) granting an increase of pension to John L. Bradford (with accompanying papers); to the Committee on Pensions.

By Mr. CHILTON:

A bill (S. 7795) to amend and revise the laws relating to printing and binding and the distribution of publications for Congress; to the Committee on Printing.

By Mr. WALSH:

A bill (S. 7796) authorizing the Secretary of the Interior to sell and convey to the Great Northern Railway Co. certain lands in the State of Montana for division terminal yards and other railway purposes, and for other purposes; to the Committee on Public Lands.

By Mr. JOHNSON of South Dakota:

A bill (S. 7797) granting an increase of pension to George M. Jaco (with accompanying papers); to the Committee on Pensions.

By Mr. PHELAN:

A bill (S. 7798) for the relief of J. G. Swinney; to the Committee on Claims.

REGENT OF SMITHSONIAN INSTITUTION.

Mr. STONE. I introduce a joint resolution and ask that it be read.

The joint resolution (S. J. Res. 194) providing for the filling of a vacancy which will occur March 1, 1917, in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur on March 1, 1917, by reason of the expiration of the term of Mr. John B. Henderson, of the city of Washington, be filled by the reappointment of the said John B. Henderson for the ensuing term.

Mr. STONE. I ask unanimous consent for the present consideration of the joint resolution.

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENT TO DISTRICT APPROPRIATION BILL.

Mr. LANE submitted an amendment proposing to appropriate $1,500 to aid the Columbia Polytechnic Institute for the Blind, located in Washington, D. C., intended to be proposed by him to the District of Columbia appropriation bill (H. R. 19119), which was referred to the Committee on Appropriations and ordered to be printed.

SOUTH CAROLINA BOLL WEEVIL COMMISSION.

Mr. TILLMAN. I offer the following resolution which I send to the desk and ask that it be read.

The PRESIDENT pro tempore. The Secretary will read the resolution.

The resolution (S. Res. 312) was read as follows:

Resolved, That the manuscript entitled "Report of the South Carolina Boll Weevil Commission, Bulletin No. 30 of Clemson Agricultural College of South Carolina," be printed as a Senate document, and that 100,000 additional copies be printed, of which 50,000 copies shall be

for the use of the Senate Document Room and 50,000 for the use of the House Document Room.

Mr. TILLMAN. Mr. President, it is well known that the boll weevil has wrought immense damage to the southern cotton growers. Entering this country 25 years ago, it has steadily marched eastward along isothermal lines, until now it is in the middle of Georgia, rapidly approaching the South Carolina border.

The necessity for teaching the farmers the right steps to be taken to meet this invasion induced the friends of our agricultural college in conjunction with the National Government to send a commission to Louisiana, Mississippi, Alabama, and other States which have been devastated in the past. That commission has made a report, which is published by Clemson College as Bulletin No. 20. This bulletin was prepared by Dr. Riggs, president of that college, and merits very wide circulation, even in those States which have already been devastated, because it contains information and suggestions for those engaged in agriculture which are very valuable anywhere in the South. I have offered this resolution, which I ask to have referred to the Committee on Printing, as the law requires.

The PRESIDENT pro tempore. The resolution will be referred to the Committee on Printing.

TENNIE A. ANDERSON.

Mr. CHILTON. I ask unanimous consent to call up Order of Business 780, being the bill (H. R. 6267) to reimburse Tennie A. Anderson, postmaster at Maplewood, Fayette County, W. Va., for money orders and postage stamps stolen. This bill has been passed by the House and has been favorably reported by the Senate Committee on Post Offices and Post Roads. It simply proposes to appropriate $152.16 for payment to a poor woman, which amount the Government justly owes her on account of some post-office matters.

Mr. SMOOT. Mr. President, I did not hear the request of the Senator from West Virginia.

Mr. CHILTON. It is to take up Order of Business 780, being House bill 6267.

Mr. SMOOT. Mr. President, I believe there is a disposition on the part of most Senators to have the Diplomatic and Consular appropriation bill passed this morning before we go into executive session.

Mr. CHILTON. This bill is one of several such bills.

Mr. SMOOT. There will be other requests to take similar bills from the calendar, and I shall object to their consideration in the morning hour.

Mr. CHILTON. I appeal to the Senator not to object to this bill. It is a bill which has already passed the other House and involves only $152.16.

Mr. SMOOT. It is not a question of the amount involved, and it is not a question of the bill itself; but I object to the consideration of the bill now.

The PRESIDENT pro tempore. Objection is made.

ORDER OF BUSINESS.

Mr. POMERENE. Mr. President, I was about to ask the Senate to take up the bill (H. R. 14822) to prevent and punish the desecration, mutilation, or improper use within the District of Columbia of the flag of the United States of America; and I hope the Senator from Utah [Mr. SMOOT] will not object to that.

Mr. OVERMAN. I am obliged to object to any bills being taken up from the calendar. I want to get through with the Diplomatic and Consular appropriation bill during the morning hour.

Mr. CHILTON. We can object to that, can we not?

Mr. OVERMAN. Any Senator can object to the consideration of an appropriation bill who desires to do so; but I now ask unanimous consent for the present consideration of House bill 19300, being the Diplomatic and Consular appropriation bill.

The PRESIDENT pro tempore. The Senator from North Carolina requests unanimous consent for the present consideration of the Diplomatic and Consular appropriation bill.

Mr. OVERMAN. During the morning hour.

Mr. ASHURST. Mr. President, of course I do not wish to object to that request. I hope the appropriation bill will be taken up, and I think it ought to pass this morning; but the Senate can not, I think, be oblivious to the fact that a large number of us here have bills which we desire to get up during the morning hour. This is, I believe, the fifth time that I have attempted to get up for consideration House bill 12426, authorizing the Indians to mine on their own reservations and authorizing other persons to make leases.

Mr. OVERMAN. I want to say to the Senator——

Mr. ASHURST. I am not going to object to the request of the Senator from North Carolina.

Mr. OVERMAN. I want to say to the Senator from Arizona that I have never objected——

Mr. ASHURST. I know the Senator has not.

Mr. OVERMAN. The Senate will bear me out in the statement that I have never objected to the consideration of bills, except in a case like the present, when, unless under unanimous consent I get this bill through during the morning hour, it will have to go over.

Mr. CHILTON. Would it not be well to finish the morning business before the bill is brought up?

Mr. THOMAS. Regular order, Mr. President.

The PRESIDENT pro tempore. The Senator from North Carolina requests unanimous consent for the present consideration of the Diplomatic and Consular appropriation bill. Is there objection?

Mr. ASHURST. Mr. President, of course I wish to finish my short statement, if I am in order. I do not wish, as I have stated, to object to the request of the Senator from North Carolina. I think the bill to which he refers should pass, and that it should pass this morning; but I now give notice that at the earliest opportunity when I may do so in order I shall ask the Senate to consider House bill 12426.

Mr. GALLINGER and Mr. SHAFROTH addressed the Chair.

The PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GALLINGER. Mr. President, I have sat quietly in my seat and allowed unanimous consent for the passage of certain bills this morning. I now wish to suggest, however, that there are more than a hundred private bills on the calendar involving small sums of money. Some of those bills have passed the House of Representatives. I think, instead of taking up these bills one at a time in the morning hour, we ought to be sensible enough to go to the calendar and to pass uncontested cases on the calendar. I am always loath to object to a request made by a Senator for the consideration of a bill, but I think I shall do so until the calendar is regularly considered.

The PRESIDENT pro tempore. Does the Senator object to the request of the Senator from North Carolina?

Mr. GALLINGER. Oh, no, Mr. President; I do not object to the consideration of the appropriation bill.

Mr. SHAFROTH. Mr. President, I do not wish to object, but I desire to give notice, while notices are being given, that I am going to call up at every possible opportunity the Porto Rican government bill, and I expect to avail myself of the morning hour to do so.

Mr. McCUMBER. I do wish to object until we get through with the routine morning business.

Mr. OVERMAN. Perhaps the Senator does not understand the reason for my request.

Mr. McCUMBER. We have not gotten through with the routine morning business as yet.

Mr. OVERMAN. We are about through with it; but I desire to say to the Senator that the reason I made the motion was that we have a unanimous-consent agreement that when we get through with the morning business we shall go into executive session, and unless I can get the appropriation bill up at this time I do not know when I can get it up again.

Mr. McCUMBER. It probably will not take five minutes to get through with the routine morning business.

Mr. OVERMAN. And when we have gotten through with it I can not get up the bill.

Mr. McCUMBER. With that explanation of the Senator, I will not object.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from North Carolina?

Mr. HUGHES. I have no objection to the request of the Senator from North Carolina so long as it is understood that it does not interfere with the unanimous-consent agreement already entered into whereby at the close of the routine morning business of the day we are to go into executive session. So long as that is understood and nobody makes the point, I have no objection.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from North Carolina?

Mr. JONES. Mr. President, the appropriation bill will probably create discussion that may go on all afternoon, so that the routine morning business could not be closed until about five minutes to 5 o'clock, and then we would not have sufficient opportunity to consider matters in executive session.

Mr. OVERMAN. I will suggest to the Senator that the morning hour will expire at 2 o'clock.

Mr. JONES. Does the Senator from North Carolina think that if this bill is considered now there will be plenty of time for the discussion of matters in executive session?

Mr. OVERMAN. I think we can get through with this bill in an hour and a half.

Mr. JONES. I am only anxious that there shall be plenty of time to consider matters in executive session. I shall not object to the request of the Senator from North Carolina.

After the transaction of routine business, which appears under its appropriate heading,

DIPLOMATIC AND CONSULAR APPROPRIATIONS.

Mr. OVERMAN. I hope that my request for unanimous consent for the consideration of the Diplomatic and Consular appropriation bill may now be granted.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from North Carolina?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 19300) making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1918, which had been reported from the Committee on Appropriations with amendments.

Mr. OVERMAN. I ask unanimous consent that the formal reading of the bill be dispensed with and that the amendments reported by the committee be first considered.

The PRESIDENT pro tempore. The Senator from North Carolina asks unanimous consent that the formal reading of the bill be dispensed with and that the committee amendments be first considered. Without objection, that course will be pursued.

The Secretary proceeded to read the bill, and read to line 22, on page 2.

Mr. OVERMAN. I desire to move, on behalf of the committee, an amendment changing the total and also an amendment, in line 12, which will effect a saving of $2,700 in the appropriation.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 2, line 12, after the word "Honduras," it is proposed to strike out "Morocco"; in line 14 to strike out "$240,000" and to insert in lieu thereof "$230,000"; after line 17 insert "Agent and consul general at Tangier, $7,500"; and in line 22 to correct the total so as to read "$534,500."

Mr. OVERMAN. I desire to say that this amendment has been recommended by the State Department, and I ask to have printed in the RECORD a letter and memorandum from the department in order that the conferees may have it before them when they come to consider amendments to the bill.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The letter and memorandum referred to are as follows:

DEPARTMENT OF STATE,
Washington, January 9, 1917.

Hon. LEE S. OVERMAN,
United States Senate.

MY DEAR SENATOR OVERMAN: By direction of the Secretary I am inclosing for your consideration a memorandum of the reasons why the department feels that it is important to change the grade of its diplomatic establishment in Morocco from that of minister plenipotentiary to that of diplomatic agent and consul general. In view of the arrangement just reached with the French Government, it is most desirable that the change be made in the pending Diplomatic and Consular appropriation bill.

The Secretary would, therefore, greatly appreciate any favorable action that the committee may take in regard to this matter.

I am, my dear Senator,

Very sincerely, yours,

WILBUR J. CARR,
Director of the Consular Service.

MEMORANDUM.

On the 30th of March, 1912, a treaty was ratified by France and Morocco providing for a form of government under the protectorate of France. The various European powers at various times within the last three years have recognized the French protectorate and changed the grade of their missions at Tangier to diplomatic agencies and consulates general. The Governments represented in Morocco are Great Britain, United States, France, Spain, Portugal, and Belgium. Germany and Austria have no representatives in Morocco at the present time on account of the war, and their interests are being cared for by the representative of the United States.

The United States is the only Government having a representative in Morocco which has not recognized the French protectorate in that country and suppressed its diplomatic mission and substituted therefor a diplomatic agency. The delay of the United States in recognizing a protectorate has been due to a number of reasons, but an understanding has just been reached with the French Government under which the United States can now extend the recognition already accorded by the other Governments. Hence it becomes necessary to give the representative of the United States in Morocco the grade of diplomatic agent instead of minister plenipotentiary, as at present. The continuance of a full diplomatic mission in Tangier would place the United States in an anomalous position and be contrary to the wishes of the Government of France and, on the other hand, the functions to be performed could not be intrusted to the consul general in Tangier, because the act of Algeciras provides that certain measures therein described relating to the Government of Morocco shall be carried out by the diplomatic corps at Tangier, of which, naturally, the consul general can not be a member.

It is therefore urged that in the Diplomatic and Consular bill now before Congress the appropriation for an envoy extraordinary and minister plenipotentiary to Morocco at $10,000 be omitted and that there be substituted a provision as follows: "Agent and consul general at Tangier, $7,500."

It is highly desirable that the salary of the diplomatic agent and consul general be not less than $7,500, because of the fact that the diplomatic agency is intended to supersede a full diplomatic mission and, therefore, should not be impaired in prestige by too great a change in the salary attached to the office. A smaller salary would not permit the agent to maintain a standard of living under the peculiar circumstances which would be consistent with the agent's greatest usefulness.

JANUARY 9, 1917.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from North Carolina.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, under the subhead "Salaries of secretaries in the Diplomatic Service," on page 3, line 6, after "$186.000," to strike out:

Provided, however, That no secretary who as chargé d'affaires at any time during 1916 refused any privilege to any American citizen because such citizen criticized the President of the United States shall be paid any salary from this appropriation.

Mr. KENYON. Mr. President, I should like to ask the Senator having this bill in charge if this is the proviso that relates to the incident of Charles Edward Russell at Paris?

Mr. OVERMAN. Yes.

Mr. KENYON. Mr. President, I think that this proposition presents a somewhat fundamental question that ought to receive some consideration. As I understand, the reason why this provision was inserted in the House was this: Mr. Charles Edward Russell had criticized the President of the United States, and when he presented himself at the American Embassy in Paris was denied a passport or other privilege because of that criticism, as stated to him by the secretary of the embassy. This provision is inserted in the bill, I imagine, as a sort of punishment to the secretary and an enunciation of doctrine.

Outside of the question of the propriety of criticizing the President of the United States, which may be a very delicate matter, especially when the criticism of the President is made abroad, the fundamental question is whether an American citizen has the same right when abroad that he has at home, and whether he shall be denied the ordinary rights of an American citizen or usual courtesies because he may have criticized the President of the United States. Furthermore, if he should do so, who is to determine the question of whether he should be denied the rights of an American citizen because of that fact, and who is to determine the fact whether or not he did criticize the President of the United States? Is that to be turned over to a clerk or a secretary of some of our embassies? Though speaking only for myself, and not defending in any way anybody who may criticize the President of the United States abroad—that may be an indelicate thing to do—I am simply insisting that an American citizen has the right to criticize the President of the United States, if he so desires, and if he does he should not be denied the rights of an American citizen either at home or abroad. On this provision I simply wish to ask for a yea-and-nay vote.

Mr. OVERMAN. Mr. President, this man, it seems, was denied no rights, but rather a mere courtesy, although one usually extended to an American citizen. He had gone abroad, and it was there, in a foreign country, while the war was going on, that he had denounced the President in the public press, and this official refused to extend to him the usual courtesies ordinarily extended to American citizens. Before the vote is taken I should like to have read a letter from the Secretary of State in regard to this matter.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

DEPARTMENT OF STATE,
Washington, December 29, 1916.

Hon. THOMAS S. MARTIN,
United States Senate.

MY DEAR SENATOR MARTIN: It appears that the Diplomatic and Consular bill, H. R. 19300, passed the House with an amendment on page 3, line 6, after the end of line 6, as follows:

"*Provided, however*, That no secretary who as chargé d'affaires at any time during 1916 refused any privilege to any American citizen because such citizen criticized the President of the United States shall be paid any salary from this appropriation."

The explanation of the amendment is contained in certain correspondence introduced by Representative BENNET, of New York, between Mr. Robert W. Bliss, then chargé d'affaires of the American embassy in Paris, and Mr. Charles Edward Russell, an American citizen. It appears that Mr. Russell wrote a letter to the Paris edition of the New York Herald, dated August 28, in which he makes certain criticisms of the President of the United States.

It also appears that on the next day, August 29, Mr. Russell called upon Mr. Bliss with a view to obtaining certain privileges from the Belgian Government, and that Mr. Bliss on the same day informed him by letter that in view of his criticism of the President as contained in the letter above referred to he did not feel justified in giving him a letter of recommendation to the Belgian legation.

While public criticism of the President of the United States by American citizens in the United States is not a matter in which this department can concern itself, the criticism of the President by Americans in the press of foreign countries bears directly upon the international relations of the United States. It is my opinion, therefore, that an American citizen who avails himself of an opportunity to discredit the standing of the President of the United States through the press of a foreign country can not expect that the diplomatic representatives of the United States shall seek to secure special privileges for him from foreign governments, privileges which he can not ask as a matter of right but which are wisely left to the discretion of our representatives.

In these circumstances I have no hesitancy in pointing out that the action of Mr. Bliss in declining to give Mr. Russell a letter of recommendation to the Belgian legation was proper and fully justified. I have no doubt, my dear Senator, that you will share these views, and that you will be glad to take such steps as may be necessary to remove from the Diplomatic and Consular appropriation bill the amendment in question.

I am, my dear Senator MARTIN,
Sincerely, yours, ROBERT LANSING.

Mr. LODGE. Mr. President, when my attention was first called to this matter, as it was at the time of the debate in the House, it seemed to me that it was a very dangerous precedent to establish that our representatives abroad could undertake to refuse recognition to reasonable requests of American citizens because they had made political criticisms of the President or political criticisms of any kind. I thought it was a very dangerous precedent to make. In the eyes of our representatives abroad Americans who apply to them for protection or for any other service must be regarded simply as Americans. They can not be regarded otherwise than as citizens of the United States, and our representatives abroad have no right to inquire into their politics.

But examining further into this particular case I found in the first place that the request was not in the nature of a right. It was not a request for a passport. It was a request for a personal letter of introduction—a courtesy usually extended as I understand to newspaper correspondents by our embassies; but it was a courtesy purely. There was no right involved.

In the second place, I found what is stated by the Secretary of State—that this criticism of the President was not a criticism made in the United States, where any citizen has a right to make respectful criticisms on the President or anybody else in public life. It was made in Paris, in a paper published in Paris, and in time of war. I will not trouble the Senate by reading the letter. It criticized the President because he had written the usual felicitations or congratulations under such circumstances to the Emperor of Austria on his accession to the throne. It may be an absurd formula, as Mr. Russell described it, but it is usual to make those formal felicitations; and the President was criticized rather severely for this by Mr. Russell in a letter published in the Paris edition of the New York Herald.

I think that puts a very different complexion on this case. Further, Mr. President, I think we ought to remember that if there is misconduct on the part of any representative of the United States abroad this is not the way to deal with it—to take away the salary from the office in an appropriation bill. It is the duty of others to deal with it. If we wish to call attention to it it is our duty and our right to bring to the attention of the executive authority the fact that the person in question has been guilty of improper conduct. I do no like this way of getting at it, assuming that what Mr. Bliss did was improper. But under the circumstances—the place where the attack was published and the fact that only a courtesy was asked in the way of a letter of introduction—it seems to me that it is hardly fitting for us to take such action as the House provision proposes.

Mr. WALSH. Mr. President, all of us in this body, I think, have learned to respect and admire the high-minded stand which the junior Senator from Iowa [Mr. KENYON] usually takes upon public matters. I should like to inquire of him now, in view of the report made on this matter by the accredited representatives of the Government, and the supplementary statement made by the Senator from Massachusetts [Mr. LODGE], whether he does not really think that instead of a reprimand our subordinate officer in the Paris Embassy is entitled rather to the commendation of his country for thus expressing his disapprobation of the conduct of American citizens who go abroad and in the very midst of the most delicate international complications venture to criticize the President of the United States in such a way as to embarrass the pending delicate negotiations?

Mr. BORAH. Mr. President, may I ask the Senator from Montana a question?

Mr. WALSH. Yes.

Mr. BORAH. What was the nature of this criticism? Was there anything of substance to it?

Mr. LODGE. If the Senator from Montana will allow me, I have just handed the senior Senator from Iowa [Mr. CUMMINS] the letter in question, published in the Paris edition of the New York Herald. Perhaps it would be well to have it read from the desk.

Mr. CUMMINS. I ask that it be read.

Mr. WALSH. We gathered from the public press, as now stated by the Senator from Massachusetts, that the President extended the ordinary felicitations to the Emperor of Austria upon his accession to the throne; and the bare fact that the President had thus extended the usual and customary felicitations becomes the occasion for some severe criticism of the President of the United States through a newspaper published in the capital of one of the countries at war with the Empire of Austria.

The PRESIDENT pro tempore. The Senator from Iowa requests the reading of the letter referred to, published abroad. In the absence of objection, the Secretary will read as requested.

The SECRETARY. The letter is found copied on page 771 of the CONGRESSIONAL RECORD of December 22, 1916, and reads as follows:

To the EDITOR OF THE HERALD:

SIR: I rejoice to see that Americans have entered their protest in your columns against President Wilson's most strange and grotesque felicitations to the Austrian Emperor.

This abominable person represents the antipodes of everything for which America is supposed to stand. He has not one ideal that is capable of being squared with ours. At a time like this, when the fundamentals of our faith are under desperate attacks from him and his allies, it is most deplorable to compromise about an issue that transcends everything else in the world. Courtesy is all very well, but if you really believe what you profess can you be courteous to a power that is aiming its guns straight at the heart of democracy. A country is not certain outlines on a map. It is an idea. If the idea of America and the idea of the Austrian Monarchy are compatible, then the Republic must be something very different from our protensions about it.

CHARLES EDWARD RUSSELL.

HOTEL DE FRANCE ET CHOISEUL,
Paris, August 28, 1916.

Mr. BORAH. Mr. President, as I understand, there is only one reference there to the President; that is, what the writer considers the grotesque proposition of offering these felicitations. All the balance of this discussion with reference to an individual is with regard to another person. Is that correct? That is my understanding of it, at least. If I had been in the place of Mr. Russell, or the party who wrote the letter, I certainly should not have written it.

Mr. WALSH. Mr. President, let me inquire of the Senator if he would have gone to the American Embassy the next day to get the courtesy of a letter commending him to anybody in Europe, if he had written the letter? Would the Senator have done that under the circumstances?

Mr. BORAH. Mr. President, I should not have written the letter. But an entirely different proposition is submitted to us here, it seems to me. I do not consider that there is anything serious about that. It certainly did not, in all probability, impeach the standing of the President of the United States in the mind of anyone in Europe. It did not have the effect of impeaching him in any respect among those with whom he desired to stand well, under those conditions; and it is making a mountain out of a molehill to bring it into legislation here.

Mr. OVERMAN. Mr. President, does the Senator think this is the proper place to remove a diplomatic and consular officer or attaché?

Mr. SMITH of Michigan. No. He ought to be left out of this legislation.

Mr. OVERMAN. Does the Senator think that a provision should be inserted in the Diplomatic and Consular appropriation bill providing that a man appointed by the President, confirmed by the Senate, and accredited to a foreign country shall have no salary?

Mr. BORAH. Mr. President, of course I am not indorsing that proposition.

Mr. OVERMAN. That is really the issue here.

Mr. BORAH. I do not see why so small and inconsequential an affair should be brought into legislation at all.

Mr. OVERMAN. It was brought in in the House.

Mr. SMITH of Georgia. We are striking it out.

Mr. BORAH. I understand that.

The PRESIDING OFFICER. Senators will address the Chair, one at a time.

Mr. WALSH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Montana?

Mr. BORAH. I yield.

Mr. WALSH. Perhaps the Senator did not understand that that is just the point. Somebody introduced an amendment to the bill which provides that this subordinate officer of the embassy shall not receive his salary by reason of this alleged offense that he committed.

Mr. BORAH. As I understand, his offense consisted of the mere withholding of a letter of introduction.

Mr. WALSH. Exactly.

Mr. LODGE. That is all.

Mr. WALSH. The question is, Shall we agree to that?

Mr. BORAH. It is a tempest in a teapot.

Mr. LODGE. Of course it is.

Mr. SMITH of Michigan and Mr. HUGHES addressed the Chair.

The PRESIDENT pro tempore. The Senator from Michigan.

Mr. SMITH of Michigan. Mr. President, if I understand this matter correctly, the limitation upon the right of our representatives abroad was placed in the bill in the House. As it comes here, the provision is stricken out. Am I correct about that?

Mr. SHAFROTH. It was stricken out by the Senate committee and reported here.

Mr. SMITH of Michigan. And we are now called upon to ratify the committee's course in that regard?

Mr. SHAFROTH. Yes, sir. That is the state of affairs.

Mr. SMITH of Michigan. So that the matter is entirely eliminated from the appropriation bill, and it is left where it properly belongs—with the Department of State.

Mr. SHAFROTH. But the Senator will bear in mind that the position which the Senator from Iowa [Mr. KENYON] took was that the House provision should not be stricken out, but should remain in the bill, and he said he would ask for the yeas and nays upon it. I agree with the Senator that it is not a subject for legislation upon an appropriation bill under any circumstances; and even if there had been fault here, to punish the officer by saying that he shall not have his salary, it seems to me, is a very poor way of bringing about results. Men act upon their judgment. If they are mistaken in their judgment, they should not be punished in that way.

Mr. SMITH of Michigan. Mr. President, limiting the right of an American citizen abroad to express his opinion about the President of the United States, even to the extent that this provision would be effective, would not be wholesome legislation. An American citizen abroad who offends against the proprieties of his citizenship is answerable to public opinion, and no criticism could be more severe than the criticism which would fall on him by reason of any indiscreet words or acts upon his part. I think it would be a very strange innovation in our legislation to place such a limitation as that on an appropriation bill. I am sorry the House of Representatives thought it necessary to go so far, and I desire to commend the Committee on Appropriations for this exercise of their discretion and sound judgment in striking out that provision. I should dislike very much to see it reinstated or to see the principle recognized by our Government.

Mr. KENYON. Mr. President, I will not ask for the yeas and nays on this question. My protest was based on the thought that an American citizen had the same rights abroad that he had here.

Mr. SMITH of Michigan. He has.

Mr. KENYON. And that he had the right to criticize the President of the United States abroad, even though it might not be a wise or discreet thing to do, just as well as he would have that right here; and that no secretary of a legation had the right to refuse him the same kind of treatment that he accorded others simply because he had criticized the President of the United States, which I understand was the situation here. I understand that a number of parties went to the embassy at the same time, under the same circumstances, and Mr. Russell was the only one to be denied the favor, if it be called a favor, at the hands of the embassy. I doubt, however, upon reflection, as to this being the proper way to raise the question.

Mr. SMITH of Michigan. Mr. President, if the Senator from Iowa will permit me, I should like to suggest that if those American citizens who have been unfortunate enough to be obliged to remain in the Republic of Mexico during the last four years without any assistance whatever from their own Government, again and again assaulted and crimes unnamable inflicted upon them, could not in their anguish cry out against the officers of their Government who have neglected them, I would think, indeed, that the rights of American citizens were fast disappearing as a part of our national curriculum. A man should exercise discretion; but even Senators on both sides of the Chamber fail to do that always while speaking of officers of their Government, and their words have much more potency and meaning among foreigners than the words of travelers abroad.

I sympathize very much with the idea that the Senator from Iowa has at heart, but I think this matter could best be regulated by the Department of State.

Mr. HUGHES. Mr. President, it seems to me one aspect of the case has been overlooked, and that is the conduct of the gentleman in question in using the language he used toward the head of one of the Governments of Europe. Regardless of the criticism of the President of the United States, which in certain quarters is very common and is justified by people privately who do not justify it publicly, leaving that aside, assuming for the sake of argument that it is the right of American citizens abroad to criticize the President of the United States and abuse him, that it is their right to refuse to speak the language of their own Nation in order to show the various countries in which they happen to be that they are more French than the French, more German than the Germans, and more English than the English, yet we have to consider the effect caused by this man's assault upon a reigning sovereign of Europe in connection with his request that he be given a letter of introduction, indorsement, and approval by our representative in another country to enable him to pursue his journey throughout the Continent of Europe.

It seems to me that the secretary at our embassy acted not only within his discretion but that he exercised a wise discretion when he refused to give a letter under the circumstances, and rather than have his salary taken away from him I should like to see a proposition to increase his salary; that is, if we are to decide these questions in this way on appropriation bills. Rather than take his salary away from him his salary should be increased. I am glad that he had the courage to do what it was his bounden duty to do under the circumstances, to say to this gentleman, while he could not in any way prevent him from exercising his privilege as a native-born American of abusing his own Government and the representatives thereof he had no right, residing in a foreign country and desiring to operate under the approval and indorsement of a letter from the representatives of America in a foreign country, to abuse the representatives of those countries.

Mr. NORRIS. May I ask the Senator a question? I should like to inquire what was the nature of the letter of recommendation or favor, if it were a favor, that this gentleman requested?

Mr. HUGHES. I do not suppose anyone knows. I presume it was the ordinary letter of introduction and approval such as the Senator and myself are in the habit of giving to people whom we think worthy of them.

Mr. OVERMAN. He just wanted an indorsement of the American Embassy.

Mr. NORRIS. It seems to me as to whether our representative declined to comply with the request would depend altogether upon what the request was.

Mr. LODGE. The request was for a personal letter to get certain privileges from the Belgian Government as a newspaper correspondent.

Mr. NORRIS. And they refused to give it to him because he had criticized the President.

Mr. LODGE. Because of the publication of this letter.

Mr. NORRIS. Mr. President, while I favor the amendment of the committee, and it seems to me this provision ought to be stricken out of the bill, I do not want my vote in favor of striking it out to be construed as an approval necessarily of the conduct of the American representative. It does not seem to me that he ought to have declined to give this man a letter that would assist him in his investigation as a newspaper correspondent unless he had evidence to show that he was going to take advantage of or abuse the privilege this favor would extend to him. Based on the ground that he had criticized the President, it seems to me, it was entirely erroneous; but even though the official were guilty of misconduct, or a very great lack of good judgment in declining for the reason that he had criticized the President to give him this letter, it is not a sufficent reason why he should not draw his salary. No matter how much we may disagree with him as to his action, I think we would have to concede that he had a right to decline, even though his reasons were not satisfactory to us, and his salary ought not to be taken away from him because he did decline.

Mr. CHILTON. Mr. President——

Mr. NORRIS. I yield to the Senator.

Mr. CHILTON. How would the Senator enforce the House provision? The Senator will observe that it is confined to the year 1916. It makes the broad statement that in a given state of facts a certain official shall not receive a salary. Who would decide the existence of those facts? There is no provision here for a reference even to a commission to determine the facts. One Government official might think the facts were one way and another might think they were another way. In other words, the House provision is on its face an unenforceable one; there is no machinery provided for determining the facts.

Mr. NORRIS. I think what the Senator says has a great deal of weight. I presume if it is left in the law the official

who would pay him or give him his warrant would take notice of the law and enforce it. However, I do not want the Senator from West Virginia to get the idea that I favor this language.

Mr. CHILTON. I do not so understand.

Mr. NORRIS. I am in favor of striking it out. I think it would be a sad mistake to leave the language in, and I would not have said anything about it if it had not been that I understood the roll was to be called and other Senators said we ought to increase the salary of this secretary for this act. I did not want any action of mine to be construed as an approval of the American official who declined to give the letter.

Mr. JAMES. Will the Senator yield for a question?

Mr. NORRIS. I will.

Mr. JAMES. Would the Senator, on the other hand, want his vote to be construed as an approval of the conduct of an American citizen on foreign soil abusing the President of his own country?

Mr. NORRIS. I do not think this vote would be construed as such an approval. There might be a great deal of evidence that ought to be taken into consideration when we pass on such a law. From what I have heard here it does not seem to me that he ought to have declined to grant him a letter, if he was of the opinion that the privilege the letter would have given would not be abused, even though he had criticized the President of the United States. It does not seem to me that that is alone a sufficient reason. There might have been other reasons. I have not heard of any.

Mr. JAMES. Does not the Senator think if this American citizen wanted to abuse the President of his own country it would have been more becoming in him to withhold his abuse and criticism until he returned home rather than to indulge in it upon foreign soil and then seek the protection of the very Government whose President be is abusing?

Mr. NORRIS. I do not believe that a citizen of the United States who criticizes the President of the United States, however severely, necessarily on account of that conduct surrenders any right he may have to protection as a citizen of the United States. I would be sorry to see an American citizen go abroad and criticize the President unnecessarily; I would be sorry to see it done here; but at the same time we disagree about those things; and we can not lay down a rule, it seems to me, that a man shall not be allowed to criticize a President of the United States here or abroad. That is going too far.

Mr. JAMES. It is not a question of protection; it is merely a question of courtesy. He asked the courtesy of a letter, in no way as a matter of protection to an American citizen.

Mr. NORRIS. I think it is more than a courtesy, I will say to the Senator.

Mr. JAMES. A man who seeks a courtesy must do so in a courteous manner.

Mr. SMITH of Michigan. The language in the proviso is "any privilege."

Mr. NORRIS. But even though it were just a courtesy, I do not believe any official of our Government ought to set up a rule, even though he can say this is a courtesy that I can grant or refuse as I please. Conceding that for argument's sake—I do not believe it, but conceding it all for argument's sake—an official ought not even to deny a courtesy because the man who asks the courtesy did not agree with him or had expressed an opinion in regard to the efficiency of any official, whether it be the President or anybody else. As long as the request he was making had nothing to do with that, and he was only asking the protection that he wanted to get as an American citizen, I think he ought to have gotten it, even though he had done wrong in criticizing the President of the United States. But upon that I express no opinion; I do not know anything about whether he did wrong or not.

Mr. SMOOT. Mr. President, the Committee on Appropriations of the Senate were unanimous in agreeing to strike the proviso from the bill. There were but two points considered. One was that the provision stricken out by the committee or similar provisions have no place upon an appropriation bill; that it is out of place and out of order to try to legislate on an appropriation bill on matters of this kind.

Again, all the members of the Committee on Appropriations took the ground, as I understand it, that the party affected had not been denied any right as an American citizen. He simply asked for a letter of introduction or a letter of commendation, and the secretary in charge thought that because of the criticism of the President it was his place to deny the letter, which he had a perfect right to do.

That being the case, Mr. President, the committee were unanimous in deciding that an appropriation bill is no place for legislation of this character, and I believe every Senator will agree to that, now that the facts in the case are known.

Mr. SMITH of Georgia. Mr. President, I desire to join in thanking the Appropriations Committee for striking this provision from the bill. I do not believe in this kind of legislation on an appropriation bill. They were right to strike it out, even if generally they might have approved it.

But, in the next place, what would it do? It says that the pay of the secretary is to be cut off if he refused any privilege to any American citizen—not a right, a privilege—who criticized the President of the United States.

I agree with the Senator from New Jersey [Mr. HUGHES]. I do not think the criticism of the President amounted in this case to a great deal, although clearly improper. The abusive language by a citizen of the United States published in a foreign newspaper, directed at the governing power of one of the governing powers of a great European country was more serious.

Mr. THOMAS. May I suggest to the Senator that if the letter of Mr. Russell had assailed the administration for something it said or declined to say affecting the ruler or the Government where Mr. Russell then was, a letter of recommendation from the Secretary to him might well subject the embassy to the suspicion of indorsing the writer's view, which might prove embarrassing. Yet if he must under the actual circumstances give the desired letter or be punished by deprivation of salary, he must also give it under the circumstances suggested. But the impropriety, even the danger, of doing so is obvious.

Mr. SMITH of Georgia. Mr. President, of course I agree with the Senator from Colorado that it is in very bad taste for American citizens to go abroad and publish letters criticizing their own Chief Executive. What I meant was that this particular criticism was rather trivial compared to the balance of the letter which assaulted one of the ruling powers of Europe. Our citizens show very poor taste and very little sense when they go abroad and write letters of this character.

I agree with the Senator from New Jersey [Mr. HUGHES]. If I were doing anything I would express my approbation of the conduct of the embassy in declining to give a letter of introduction to this kind of an American citizen. But no matter what the facts are, this bill is no place to deal with the subject; and I again say that I shall not only vote to support the report of the Committee on Appropriations in striking out the proviso, but I thank them for doing it.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The reading of the bill was continued to page 9, line 1.

Mr. OVERMAN. At that point the committee offers an amendment reducing the appropriation, in line 22, page 8, from $200,000 to $150,000.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 8, line 22, strike out "$200,000" and insert in lieu thereof "$150,000," so as to make the paragraph read:

To enable the President to meet unforeseen emergencies arising in the Diplomatic and Consular Service and to extend the commercial and other interests of the United States and to meet the necessary expenses attendant upon the execution of the neutrality act, to be expended pursuant to the requirement of section 291 of the Revised Statutes, $150,000, together with the unexpended balance of the appropriation made for this object for the fiscal year 1917, which is hereby reappropriated and made available for this purpose.

The amendment was agreed to.

Mr. SMITH of Michigan. Mr. President, I wish to ask the Senator a question. I notice here an item for ground rent at Tokyo. I had an impression that our Government owned the embassy there.

Mr. OVERMAN. We own the building, but we could not buy the land. We have a lease. The plot was leased to us for a nominal sum as ground rent. That language has occurred in this bill for years and years.

Mr. SMITH of Michigan. It is a mere matter of form?

Mr. OVERMAN. They declined to give us a fee, but I think our lease is for 99 years.

Mr. SHAFROTH. I will say to the Senator that that ground rent is exceedingly low. The grounds are very large; they are quite extensive.

Mr. SMITH of Michigan. I understand the ground rent is very reasonable.

Mr. SHAFROTH. It is exceedingly so. The ground is located almost within the heart of the city, and it occupies perhaps the space of an acre or an acre and a half.

Mr. SMITH of Michigan. I understood that this land was to be conveyed to our Government; that it was made as an evidence of

friendship and good will on the part of Japan; and that for years we have been occupying it as our own. If, however, because of any technical objection to taking the absolute title, we are holding it under a leasehold estate, this provision of course would be necessary and perfectly proper.

Mr. SHAFROTH. Evidently the Tokyo Government and the Washington Government agreed to this rental of $250 per annum, for this item has been in every diplomatic and consular bill for years.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the subhead, "Emergencies arising in the Diplomatic and Consular Service," on page 9, line 1, after the word "purpose," to insert:

Provided, That in his discretion the President may employ part of this fund for payment for personal services in the District of Columbia or elsewhere, notwithstanding the provisions of any existing law—

So as to make the clause read:

To enable the President to meet unforeseen emergencies arising in the Diplomatic and Consular Service and to extend the commercial and other interests of the United States and to meet the necessary expenses attendant upon the execution of the neutrality act, to be expended pursuant to the requirement of section 291 of the Revised Statutes, $200,000, together with the unexpended balance of the appropriation made for this object for the fiscal year 1917, which is hereby reappropriated and made available for this purpose: *Provided*, That in his discretion the President may employ part of this fund for payment for personal services in the District of Columbia or elsewhere, notwithstanding the provisions of any existing law.

Mr. LODGE. Mr. President, I am very anxious to see this bill go through, and I do not care to delay it by discussion. Therefore I make the point of order against this proviso that it is clearly general legislation and that it repeals existing law.

Mr. OVERMAN. Mr. President, this is a limitation on the appropriation and provides how the money shall be spent. If it is a violation of existing law or any change of existing law, I will admit that the Senator from Massachusetts is correct and that his point of order is well taken.

Mr. LODGE. The proviso reads, "Notwithstanding the provisions of any existing law."

Mr. OVERMAN. I know those words are there, and if the Senator can show me that there is any such existing law I will agree that his point is correct.

Mr. LODGE. I could show the Senator, but I do not want to take the time to do so.

Mr. OVERMAN. I do not wish the Senator to take the time.

Mr. LODGE. This provision for $200,000 is for money to be used in the Diplomatic and Consular Service and for "the necessary expenses attendant upon the execution of the neutrality act." It is purely a secret-service fund. It is the only money of which I know appropriated under this Government which can be spent on the voucher of the Secretary of State and where there is a particular exemption from any itemized return. This is a proposition to permit this money to be spent in any way that the Executive chooses, without regard to that statute. It is wholly new legislation, because this is a special fund.

Mr. OVERMAN. If the Senator will permit me, the only provision I can find in the existing law on the subject is the following:

No money appropriated in any other act shall be used during the fiscal year 1917 for the payment of personal services in the departments at Washington.

But that was only the existing law, as I understand, so far as the appropriation bill for 1917 was concerned.

Mr. LODGE. Mr. President, the President of the United States could not spend this money. If he could spend it now under existing law, there would be no need of this proviso.

Mr. SMOOT. Mr. President, I think the Senator from Massachusetts has reference to the general law passed in relation to the spending of money appropriated for purposes outside of the District of Columbia being expended in the District, but this provision says "to be expended pursuant to the requirement of section 291 of the Revised Statutes." I think clearly the Senator from Massachusetts is right in his contention that the amendment is a change of existing law, and that his point of order is well taken.

I desire to say to the Senator that I am bitterly opposed to any such provision as this on appropriation bills generally. I was opposed to this provision in the committee and voted against it, but there is a reason for this provision on this particular appropriation bill. I will say to the Senator—though I suppose it would hardly be proper to refer to particular cases that were called to the attention of the committee by the State Department——

Mr. LODGE. I know what those purposes are.

Mr. SMOOT. But even in the case of the commission appointed for the consideration of the Mexican situation——

Mr. LODGE. Let them ask for appropriations for it in the proper way.

Mr. SMOOT. I perfectly agree with the Senator from Massachusetts. I do not like this kind of legislation on any bill, I do not care what that bill may be. The point of order, in my opinion, is well taken.

Mr. LODGE. Mr. President, as to the change of existing law, of course, the bill shows on its face that the provision is made to avoid existing law, which is stated in the paragraph itself. I only wanted to call attention to the peculiar nature of the appropriation.

Mr. OVERMAN. I do not propose now to discuss the merits of the matter, because, if the Senator is correct in his contention, the amendment is in violation of the rules; but I can not understand where it is in violation of any existing law.

Mr. LODGE. It is in violation of the law stated in this bill.

Mr. OVERMAN. I want to read the statute.

Mr. LODGE. I do not refer to that section. That is the section which provides how the money shall be spent; the law is to enable the President to meet unforeseen emergencies arising in the Diplomatic and Consular Service; that is the law to-day, and it has been the law for years, including "the necessary expenses attendant upon the execution of the neutrality act."

Mr. OVERMAN. There is nothing in the law that prevents the President from expending the money in the District of Columbia.

Mr. LODGE. Very well. If there is nothing in the law to prevent such expenditure, then there is no necessity for the proviso.

Mr. OVERMAN. Yes; but there has been time and time again put into the law a proviso that certain appropriations should not be expended in the District of Columbia.

Mr. LODGE. The purpose of this provision is to put a great sum of money—the only sum of money that can be spent merely on vouchers—in the hands of the Executive to spend on vouchers.

Mr. OVERMAN. Yes; he wants to spend it in the District of Columbia.

Mr. LODGE. Exactly; without making an itemized return.

Mr. OVERMAN. It is a secret fund.

Mr. LODGE. Exactly; and he wants to spend the Secret Service fund in the District of Columbia for personal services.

Mr. OVERMAN. Some part of it, he does, to aid him in carrying out the execution of the laws.

Mr. LODGE. There is nothing to prevent his spending it.

Mr. OVERMAN. I am not going into the discussion of the merits of the case. I simply wish to call the attention of the Presiding Officer to section 291 of the Revised Statutes, page 49, of which this proviso is amendatory, which section reads:

SEC. 291. Whenever any sum of money has been or shall be issued from the Treasury for the purposes of intercourse or treaty with foreign nations in pursuance of any law the President is authorized to cause the same to be duly settled annually with the proper accounting officers of the Treasury by causing the same to be accounted for, specifically, if the expenditure may in his judgment be made public, and by making or causing the Secretary of State to make a certificate of the amount of such expenditure as he may think it advisable not to specify, and every such certificate shall be deemed a sufficient voucher for the sum therein expressed to have been expended.

There is nothing in the language as to where the money shall be expended, whether in the District of Columbia or outside of the District. So I contend there is no change in existing law, but if the Senator can cite me to any change in existing law I will agree with him at once as to his point of order.

Mr. LODGE. Mr. President, if I gave the impression that the amendment was a change of section 291 of the Revised Statutes, I did not so intend. I referred to section 291 as showing the peculiar character of the law. Now, for every purpose of the Secret Service, whether in the District of Columbia or elsewhere, or for diplomatic emergencies, this money can be spent in the District of Columbia or anywhere else; but——

Mr. SMITH of Georgia. Mr. President——

Mr. LODGE. One moment. It can not, however, be spent under existing law to pay the salaries of commissioners, and we ought to know what appropriations are made for matters which should go through the regular course. This proviso is to get rid of the laws protecting the expenditure of the public appropriations; that is the purpose; and it changes the law in regard to this peculiar Secret Service fund.

Mr. SMITH of Georgia. Will the Senator allow me to ask him a question?

Mr. LODGE. Certainly.

Mr. SMITH of Georgia. Can the Senator point me to the law to which he refers?

Mr. LODGE. The law is in this statute right before us.

Mr. SMITH of Georgia. What statute? This act?

Mr. LODGE. It is written in this appropriation bill. That is the law to-day.

Mr. SMITH of Georgia. It is not the law until we pass it.

Mr. LODGE. No; but it is the law under the last diplomatic appropriation act.

Mr. SMITH of Georgia. The last act applied to the then appropriation, and we are not proposing to change it under this bill.

Mr. LODGE. The last act—and I should think the Senator would know it—is the law until the 30th of June next.

Mr. SMITH of Georgia. Precisely.

Mr. LODGE. Very well. It is the law of the country to-day. This is an effort to get hold of the secret-service fund and spend it for purposes which ought to be returned in due course. I have no objection to voting money to pay the Mexican Commission, but I object to having it done out of the secret-service fund.

Mr. SMITH of Georgia. I do not desire to be misunderstood. I am not expressing my approval of this provision. I will not vote to appropriate $200,000, to be spent by anybody in the District of Columbia, without the requirement of a report and without knowing how it is to be spent. I entirely disapprove this proviso, and shall not support it; but what I meant was this: I think the Senator from Massachusetts goes too far when he undertakes to say that the appropriation——

Mr. LODGE. Mr. President——

Mr. SMITH of Georgia. One moment, let me finish—that the appropriation act of last year appropriating $200,000, and specifying the way in which that money should be expended, becomes a part of the general law of the land. The limitation on our appropriation bills is that where a general statute is in force fixing the rule of law as one of general conduct, we can not change it on an appropriation bill.

Mr. LODGE. Very well, Mr. President. Now, if the Senator will allow me, what we are changing by this provision is not only existing law as contained in the last Diplomatic and Consular appropriation bill, but we are changing all the laws which require accounting. It is proposed that the money here appropriated shall not be subject to the laws which require itemized accounting for all appropriations. The proviso would not be there if it were not necessary.

Mr. SMITH of Georgia. If the Senator can call my attention to the statute which provides that, with the exception of this kind of an appropriation, all expenditures shall be accounted for in a certain way, then I will agree that is a general law and this amendment would be subject to the point of order.

Mr. LODGE. The laws providing for accounting, the laws against exceeding the amount appropriated, the laws in relation to auditing, and the laws for submitting questions to the comptrollers go back in our general legislation to the foundation of the Government.

Mr. SMITH of Georgia. Yes.

Mr. LODGE. They cover the whole system of governmental accounting. This item proposes that this money shall not be subject to the general system of governmental accounting.

Mr. SMITH of Georgia. Is there a provision of law limiting the expenditure of this $200,000 to places outside of the District of Columbia?

Mr. LODGE. It is limited by section 291, which the Senator from North Carolina [Mr. OVERMAN] has read. That is what gives this particular appropriation its peculiar character. It is the fund that was known in our early history as the "Mediterranean fund," which was used to buy from the Barbary pirates safety for our ships in the Mediterranean. The Secretary of State has always necessarily had to have a fund at his disposition that did not have to be accounted for under the general laws requiring itemized accounting and submission to the auditors. The statute books abound with those laws.

Mr. SMITH of Georgia. I am not in favor of extending the privilege of spending this $200,000 in the District of Columbia without an accounting.

Mr. LODGE. The amendment bears on its face the evidence that it is general legislation, because the money is to be accounted for by voucher, not by itemized statement. All the Secretary of State has to do is to sign a voucher that the money has been spent by him. He does not have to give the purpose of its expenditure; he does not have to give any name. It is a secret-service fund, and the object is to have this secret-service fund so that it can be spent for objects which ought to be accounted for and as to which there is no reason why an accounting should not be made.

Mr. SMITH of Georgia. I agree with the view of the Senator from Massachusetts that the privilege of spending this $200,000 in the District ought not to be given except according to the general rules provided for domestic expenditures.

Mr. LODGE. How can the proposed amendment fail to be otherwise than general legislation when it says "notwithstanding the provisions of any existing law"? It appears on its face that it is existing law.

Mr. SMITH of Georgia. It might say, "that being the general law which is hereby superseded," but if there were not a general law that would not be true.

Mr. LODGE. Ah, Mr. President, those words are never used without a purpose.

Mr. FALL. Mr. President, just let me ask the Senator from Georgia, who is a lawyer, a legal question. I will ask him what is the necessity for this provision if it is not to avoid the requirement of some existing law? If it does not do so, then the amendment is not needed and the $200,000 can be used as desired without it.

Mr. SMITH of Georgia. No; the provision itself designates the way in which it is to be used.

Mr. FALL. Let us have it read.

Mr. SMITH of Georgia. I will read it. It is as follows:

To enable the President to meet unforeseen emergencies arising in the Diplomatic and Consular Service and to extend the commercial and other interests of the United States and to meet the necessary expenses attendant upon the execution of the neutrality act, to be expended pursuant to the requirement of section 291 of the Revised Statutes, $200,000, together with the unexpended balance of the appropriation made for this object for the fiscal year 1917, which is hereby reappropriated and made available for this purpose.

I should like to hear read section 291 of the Revised Statutes.

Mr. OVERMAN. I read that a few moments ago.

Mr. FALL. But in the meantime, in answer to my question, will not the Senator from Georgia proceed with the reading of this proviso?

Mr. SMITH of Georgia. Certainly. The proviso reads:

Provided, That in his discretion the President may employ part of this fund for payment for personal services in the District of Columbia or elsewhere, notwithstanding the provisions of any existing law.

I think the presumption would be from the language used that the writer thought there was an existing law in the way, and that the object of that proviso was to get rid of existing law.

Mr. FALL. Very well.

Mr. SMITH of Georgia. What I did was to ask the Senator from Massachusetts if he would call my attention to the existing law.

Mr. FALL. And what I did was to ask the Senator, as a lawyer, if he does not think, then, that this amendment is subject to the objection made by the Senator from Massachusetts?

Mr. SMITH of Georgia. Not necessarily from its own language; but actually and certainly objectionable if it does change existing law.

Mr. NORRIS. Mr. President——

Mr. LODGE. Pardon me. If the Senator will turn to Chapter IV, in which section 291 occurs——

Mr. SMITH of Georgia. Will the Senator read it?

Mr. LODGE. It is a long chapter and contains many sections prescribing the powers of the auditors; but section 291 was incorporated in that chapter in order to take this particular fund out of the jurisdiction of the auditor, as all other public money has to pass through the hands of the auditor. That is the law that this provision is to avoid, among others; and there are many others.

Mr. NORRIS. Mr. President——

Mr. OVERMAN. According to that, the Senator would strike out the whole section and not appropriate anything.

Mr. LODGE. Oh, no.

Mr. OVERMAN. If the accounts go to the auditor, the Secretary of State will not be able to spend a cent under the appropriation. The whole paragraph, without the proviso, will allow him to spend it outside of Washington without going before the auditor.

Mr. LODGE. Not at all. The section of the appropriation bill brings the matter specifically within section 291; and the purpose of this amendment is to take that money, which is specificially for that purpose under section 291, and use it for other purposes, which ought to be accounted for under the ordinary laws of accounting.

Mr. OVERMAN. Mr. President, the words "notwithstanding the provisions of existing law" are usual words, but they really have no place here.

Mr. LODGE. Then, drop them.

Mr. OVERMAN. The words are:

Provided, That in his discretion the President may employ part of this fund for payment for personal services in the District of Columbia or elsewhere, notwithstanding the provisions of any existing law.

I do not know of any existing law——

Mr. LODGE. Then, drop the proviso out.

Mr. OVERMAN. I am willing to strike out the words "notwithstanding the provisions of any existing law."

Mr. FALL. Let me ask the Senator a question.

The PRESIDING OFFICER (Mr. POMERENE in the chair). Just one moment, please. The Senator from Massachusetts has the floor. To whom does the Senator yield?

Mr. NORRIS. I thought the Senator had yielded the floor.

Mr. LODGE. I have concluded, Mr. President.

Mr. FALL. Then, let me ask the Senator from North Carolina, who has charge of the bill, a question.

Mr. OVERMAN. Yes.

Mr. FALL. Can the President, under existing law, use any part of the $200,000 for the purposes expressed in the proviso?

Mr. OVERMAN. That is the very point I make. Now, if the Senator or anybody else can show me any statute——

Mr. FALL. The Senator is asking a question now. I am asking the Senator a question.

Mr. OVERMAN. I know of no such law; and I say that if the Senator who makes the point of order can show any law I will yield at once, because it would be subject to a point of order.

Mr. LODGE. I have shown pages of law—endless pages of law.

Mr. OVERMAN. Well, let us take a ruling on it.

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NORRIS. Mr. President, I think everybody has been talking without recognition, and I will proceed now. I am very thankful to get it. I think I should have received it before.

I want to call attention to the fact that even though this does change existing law it is not subject to a point of order, as I understand it, because there is not any rule of the Senate that I know of——

Mr. LODGE. It is general legislation.

Mr. NORRIS. But the Senator has not made the point that it is general legislation.

Mr. LODGE. I made that precise point. The Chair will bear me out in that statement.

Mr. NORRIS. All right, then; if the Senator makes it on that ground he is mistaken. It is not general legislation. This particular change, while I think the man who wrote it intended that it should and believed that it would change existing law, does not provide for general legislation. The Vice President has very frequently decided that a change of law that does not amount to general legislation is not such a change under our rules as will make the provision subject to a point of order.

Mr. LODGE. Mr. President, if the Senator will allow me——

Mr. NORRIS. In just a moment I will. The rule provides:

No amendment which proposes general legislation shall be received to any general appropriation bill, nor shall any amendment not germane or relevant—

And so forth. The law this particular provision changes is the provision contained in the part of the bill making this appropriation of $200,000. It is limited to this particular appropriation, and to the fiscal year for which the appropriation is made. It seems to me, therefore, that in no sense could it be considered general legislation. It applies only to this appropriation. It is limited to this.

Now I yield to the Senator from Massachusetts.

Mr. LODGE. Mr. President, I am, of course, aware that the House rule is "changing existing law" and ours is "general legislation." I cited the change of existing law simply because it is a characteristic of general legislation to repeal a general law. The laws which this repeals pro tanto are all legislation of the most general character.

Mr. NORRIS. Yes; but this does not repeal them.

Mr. LODGE. I insist that it does.

Mr. NORRIS. Only to the extent of this appropriation, and only for the fiscal year for which the appropriation is made. From what little I know about the matter I am rather in sympathy with what has been said against the amendment; but it does not seem to me, notwithstanding that, that it is subject to the point of order that is made against it.

Mr. WALSH. Mr. President, I assume that this discussion, since it arises upon a point of order, is addressed to the Chair rather than to the Senate; but I should like some information about this matter from either the Senator having the bill in charge or the Senator from Massachusetts, who seems to be unusually well informed upon this subject.

As I read this provision, it simply contemplates the expenditure of some of this money in the District of Columbia. Were it not for the provision, I assume that there would be some obstacle in law to the expenditure of any portion of it in the District of Columbia.

Mr. LODGE. Mr. President——

Mr. OVERMAN. Mr. President, I can settle this thing at once.

The PRESIDING OFFICER. Does the Senator from Montana yield, and to whom?

Mr. OVERMAN. If the Senator will yield, I find the statute that I asked the Senator to show me. I was rather inclined to think that there was not such a statute; but I find that the act of August 5, 1882, provides:

That no civil officer, clerk, draftsman, copyist, messenger, assistant messenger, mechanic, watchman, laborer, or other employee shall after the 1st day of October next be employed in any of the executive departments or subordinate bureaus or offices thereof at the seat of government except only at such rates and in such numbers, respectively, as may be specifically appropriated for by Congress for such clerical and other personal services for each fiscal year; and no civil officer, clerk, draftsman, copyist, messenger, assistant messenger, mechanic, watchman, laborer, or other employee shall hereafter be employed at the seat of government in any executive department or subordinate bureau or office thereof or be paid from any appropriation made for contingent expenses, or for any specific or general purpose, unless such employment is authorized and payment therefor specifically provided in the law granting the appropriation.

Therefore I say it is against the rule, and I will let it go out.

The PRESIDING OFFICER. The Chair sustains the point of order. The Secretary will proceed with the reading of the bill.

Mr. SMITH of Michigan. Mr. President, I do not want to let the opportunity pass to say that according to my observation there has been no more consistent advocate of the very rule he has just applied than the Senator from North Carolina [Mr. OVERMAN]. He has insisted from first to last that there should be no general legislation on appropriation bills. His motion to strike out this limitation is in harmony with his record, and is very gratifying.

Mr. SMITH of Georgia. Mr. President, I wish to say one thing more with reference to this matter while we are on it. The privilege of putting in the appropriation bill that part of the act contained from line 16 down through the balance of the page grows out of section 291, which limits the use of the money to the purposes of intercourse or treaty with foreign nations. It authorizes the appropriation for that purpose, and when used for that purpose allows the Secretary of State to make a certificate of the amount of such expenditure, and takes it out of the general rule subjecting all appropriations to audit and detailed control. When the use of the funds passes beyond intercourse or treaty with a foreign nation, then the exception ceases, and it falls within the general provision of the law applicable to all appropriations of Congress. It is therefore clear that the general law, not the appropriation bill, subjects all expenditures to detailed audit except in the cases covered by section 291, and this only extends the use to "purposes of intercourse or treaty with foreign nations." The proviso clearly seeks to extend the use beyond that permitted by the general law, and I do not doubt the point of order should be sustained.

Mr. LODGE. I may say that merely striking out the words "notwithstanding existing law" does not affect the point of order.

The PRESIDING OFFICER. The Chair has sustained the point of order. The Secretary will proceed with the reading of the bill.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 13, after line 8, to insert:

SECOND PAN AMERICAN FINANCIAL CONFERENCE.

The President is authorized to extend to the Governments of Central and South America an invitation to be represented by their ministers of finance and leading bankers, not exceeding three in number in each case, to attend the Second Pan American Financial Conference in the city of Washington, at such date as shall be determined by the President, with a view to carrying on the work initiated at the First Pan American Financial Conference and establishing closer and more satisfactory financial relations between their countries and the United States of America, and authority is given to the Secretary of the Treasury to invite, in his discretion, representative citizens of the United States to participate in the said conference, and for the purpose of meeting such actual and necessary expenses as may be incidental to the meeting of said conference and for the entertainment of the foreign delegates during the conference, to be expended under the direction of the Secretary of the Treasury, to be immediately available and to remain available until expended, $50,000.

The amendment was agreed to.

The next amendment was, on page 21, after line 10, to strike out:

NINETEENTH CONFERENCE INTERPARLIAMENTARY UNION.

The appropriation of $10,000 "For the purpose of defraying the expenses in Washington City incident to the Nineteenth Conference of the Interparliamentary Union to be held in Washington in 1915, to be expended uder such rules and regulations as the Secretary of State may prescribe," made in the act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1915, and extended and made available for the calendar years 1916 and 1917 by the Diplomatic and Consular act approved July 1, 1916, is hereby extended

and made available for the calendar year 1918: *Provided*, That said sum may, in the discretion of the Secretary of State, be expended within the United States, but not elsewhere: *Provided further*, That an itemized account of all expenditures shall be reported to Congress.

The amendment was agreed to.

The next amendment was, on page 22, after line 5, to strike out:

FIFTEENTH INTERNATIONAL CONGRESS AGAINST ALCOHOLISM.

To complete the arrangements and provide for the entertainment of the Fifteenth International Congress Against Alcoholism to be held in the United States, to be expended under such rules and regulations as the Secretary of State may prescribe, $10,000, or so much thereof as may be necessary, together with the unexpended balance of previous appropriations for the holding of said congress in the United States: *Provided*, That an itemized account of all expenditures shall be reported to Congress.

The amendment was agreed to.

The next amendment was, under the subhead "Post allowances to consular and diplomatic officers," on page 24, line 24, after the word "officers," to insert "in belligerent countries and countries contiguous thereto," so as to make the clause read:

To enable the President, in his discretion and in accordance with such regulations as he may prescribe, to make special allowances by way of additional compensation to consular and diplomatic officers in belligerent countries and countries contiguous thereto in order to adjust their official income to the ascertained cost of living at the posts to which they may be assigned, $200,000.

The amendment was agreed to.

The next amendment was, on page 27, after line 21, to strike out:

ACQUISITION OF LEGATION PREMISES AT MANAGUA, NICARAGUA.

For the purchase of the grounds and buildings known as Quinta Nina at the city of Managua, Nicaragua, and for such alteration, repair, and furnishing of the same as may be necessary for the use of the legation to Nicaragua, both as a residence of the minister and for the office of the legation, and for the erection on the premises of suitable quarters for the legation guard, $80,000.

The amendment was agreed to.

The reading of the bill was concluded.

The PRESIDING OFFICER. If no further amendment is proposed, the bill will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The PRESIDING OFFICER. The morning business is closed.

EXECUTIVE SESSION.

Mr. NEWLANDS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 3 hours and 30 minutes spent in executive session the doors were reopened.

NOMINATION OF WINTHROP M. DANIELS.

During the consideration of executive business,

On motion of Mr. HUGHES, and by unanimous consent, the injunction of secrecy was removed from Miscellaneous Executive Document No. 2 and Miscellaneous Executive Document No. 3, and they were ordered to be printed as Senate documents and also in the RECORD, as follows:

[Senate executive session, Misc. Ex. Doc. No. 2, 64th Cong., 2d sess.]

[S. Doc. No. 673.]

WINTHROP M. DANIELS.

AN ADDRESS DELIVERED BEFORE THE SENATE OF THE UNITED STATES ON JANUARY 3 AND 6, 1917, IN OPPOSITION TO THE CONFIRMATION OF THE NOMINATION OF WINTHROP MORE DANIELS, TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION, BY HON. ALBERT B. CUMMINS, UNITED STATES SENATOR FROM IOWA.

Mr. President, I am opposed to the confirmation of Winthrop M. Daniels as a member of the Interstate Commerce Commission. My opposition is entirely impersonal. I am not acquainted with the nominee and know nothing whatsoever about him, except as his views and tendencies are disclosed in his record; first, as a member of the Board of Public Utilities of New Jersey; and second, as a member of the Interstate Commerce Commission. I do not question his intellectual strength and accomplishments. I have no reason to doubt his general integrity. My objection is based wholly upon his unfitness for the particular office which he has filled for the last two years and a half, and to which he is now nominated for the full term of seven years. Before I have finished I will state specifically the reasons which, in my judgment, disqualify him for the work of the Interstate Commerce Commission; but at the very outset I desire to express my opinion respecting the supreme importance attaching to the action of the Senate upon his nomination.

I believe that we have reached the parting of the ways. I believe that our system of the control and regulation of common carriers is on final trial, and that if the commission is to be made up of men of Mr. Daniel's trend of mind the system must be abandoned. For one, I have no hesitation in declaring that if his views are to prevail I am for absolute and immediate Government ownership and operation of our transportation facilities. If the charges for service rendered by our public carriers are to increase year after year in the rapid ratio which the principles he advocates will not only authorize but require, the burden, now heavy, will become insupportable. If his economic opinions are to become the settled law on the subject, there is no relief save through the abolition of private ownership. To insist that he honestly holds these opinions simply emphasizes and intensifies the wrong and converts what might be a temporary evil into a permanent injustice. If the Senate confirms the nomination of this man it will be notice to the people that we approve the course he has marked out for the regulation of public utilities, and we may be altogether certain that it is a course which will be condemned by an overwhelming majority of those whose interests are deliberately ignored.

The duty I am about to perform is not an agreeable one, and I am perfectly conscious that it is not an easy one. It will be said in every variety of phrase that I am assailing the nominee simply because I do not agree with his decisions, and that it is unfair and ungenerous to object to a confirmation because of such differences of opinion. It will be asserted, I know, that every officer of the Government who acts in a judicial or quasi judicial capacity should be independent and express in his decisions his honest convictions. I agree that every man in such a position should be sincere and record his conscience in every judgment; but that does not touch the point. If his mind is so warped that he is incapable of administering the law in an unprejudiced way, he ought not to be given the opportunity to pervert the principles which underlie the subject or to destroy the policy which the common justice of mankind has established.

For instance, I have great admiration for Theodore Roosevelt, but it could hardly be said that he would be acceptable as an arbitrator between Germany and Great Britain. There is no man in the Senate in whose honor and integrity I have more implicit confidence than the senior Senator from New Jersey, but I would hesitate a long time before I could bring myself to put the administration of a prohibition law in his hands. These illustrations could be multiplied indefinitely, and they teach us that there are some men who, by their training and trend of thought, have wholly disqualified themselves for certain offices. This is the category in which I put Mr. Daniels, and while the Senate may try to take him out of it, the effort in the end will be a dismal failure.

In the exercise of those prophetic powers which every man of common sense enjoys I predict that before long we will either have an Interstate Commerce Commission made up of men who look upon the subject intrusted to them from a different standpoint than the one occupied by Mr. Daniels, or the commission will be abolished.

It is worth while to recall just what authority Congress has conferred upon the Interstate Commerce Commission, and what its duties, broadly speaking, are.

Section 1 provides:

"All charges made for any service rendered or to be rendered in the transportation of passengers or property, and for the transmission of messages by telegraph, telephone, or cable, as aforesaid or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof, is prohibited and declared to be unlawful."

Section 3 provides:

"That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic to any undue or any unreasonable prejudice or disadvantage in any respect whatsoever."

These are the generic rules to be enforced by the commission, and the entire act and all its amendments, comprising something like 60 printed pages, gathers round these fundamental declarations.

The commission is organized and exists for the purpose of compelling each such common carrier to exact for its service just and reasonable compensation, and to render its service without unreasonable preference or advantage as between localities, kinds of traffic, and persons. The details of the law adopted to carry into effect these vital commands and prohibitions are not material to the present inquiry. There is, however, one amendment intended to aid in the ascertainment of just and reasonable charges which should be borne in mind. I refer to the act approved March 1, 1913, entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof by providing for the valuation of the several classes of property of carriers subject thereto, and securing information concerning their stocks, bonds, and other securities."

This amendment was for the purpose of furnishing certain information respecting the value of property of common carriers. It authorizes and requires the commission, first, to make an inventory of all the property of every common carrier subject to the provisions of the interstate commerce act, and show the value thereof, and to classify the physical property in accordance with established rules. Second, with respect to each piece of property owned and used for common carrier purposes, the original cost to date, the cost of reproduction, less depreciation, and an analysis of the methods by which these several costs are obtained and the reason for their differences, if any. In like manner to ascertain and report separately their values and elements of value, if any, of the property, and an analysis of the methods of valuation employed, and of the reasons for any difference between such value, and each of the foregoing cost values.

Much other information is required, but it is not necessary to recite the further provisions of the amendment.

The effect of the work of the commission under the amendment is thus stated:

"All physical valuations by the commission and the classification thereof shall be published, and shall be prima facie evidence of the value of the property in all proceedings under the act to regulate commerce as of the date of the findings thereof, and in all judicial proceedings for the enforcement of the act approved February 4, 1887, commonly known as 'An act to regulate commerce' and the various acts amendatory thereof, and in all judicial proceedings brought to annul, set aside, or suspend in whole or in part any order of the Interstate Commerce Commission."

The ultimate purpose of the amendment was to give the commission and the courts authority to fix the standard by which rates, whether published by the carriers or promulgated by the commission, could be measured: that is to say, a value by which the adequacy or inadequacy of rates to provide a fair return could be at least in part determined.

When it is remembered that the carriers claim the aggregate value of the property to be considerably more than $20,000,000,000, the overshadowing importance of the power here conferred upon the commission becomes so apparent that no comment is necessary.

It may be well, however, to mention one phase of our system of regulation which may have escaped the present attention of Senators. The carriers have the constitutional right, and it is fully recognized and provided for in the interstate commerce act, to appeal to the courts if any order of the commission reduces their compensation below the constitutional limit or otherwise infringes their constitutional privileges. The public—that is to say, those who receive the service and pay the compensation—have no such right, and they must abide by the judgment of the commission. For them the commission is the tribunal of final resort, and if injustice be inflicted they must suffer without a remedy.

I am not criticizing the act in this, because it is necessary. We can not give the shipper the right to assail orders of the commission without imposing upon the courts the duty of determining reasonable rates for the future; in other words, without attempting to confer jurisdiction to try a case de novo upon its merits. In my opinion it would be unwise to transfer to the courts this jurisdiction, even if we could do so; but it is quite clear that we can not, under the Constitution, confer upon the courts the authority to perform what is essentially a legislative act.

I mention this is order to emphasize the degree of care we ought to exercise in selecting members of the commission and to fasten upon the minds of Senators a due sense of the tremendous responsibility which they must bear when they pass upon the qualifications of persons who are to rule in such a domain.

One further thought and I shall have concluded these preliminary observations.

I have already mentioned the magnitude of the property used in transportation, and it must have occurred to you that a very small percentage of unjust advance in this vast sum will impose a heavy burden upon the people during all the years to come, for upon any such advance the public must pay a yearly return of 6, 8, or 10 per cent. I now remind you that the Interstate Commerce Commission has just issued a statement indicating that the gross operating revenue of this property for the last calendar year amounts to more than $3,500,000,000. I hope you will not forget as I proceed that an increase of 5 per cent in the charges for transportation will take from the public the staggering sum of $175,000,000 annually. I allude to these things because we are dealing with a subject so big that it demands the most alert intellect to fully comprehend its proportions.

Having pointed out, with commendable brevity I hope, the gravity of the question before us, and outlined the character and extent of the powers and duties of the Interstate Commerce Commission, I turn now to the men to whom we are asked to commit these powers and upon whom we are asked to impose these duties.

He was at one time a member of the Board of Public Utilities Commissioners of the State of New Jersey, and he has been for something like two years and a half a member of the Interstate Commerce Commission. He was a dominating force on the New Jersey board, and has been, I think, the controlling influence on the Federal tribunal. His activity in both positions has been conspicuous, and his prominence in the decisions of these governmental bodies is easily seen.

It is not my purpose to review more than two cases for the result of which he is partly or wholly responsible. I select these cases because they deal with the fundamentals of regulation, and announce with the utmost emphasis the principles which must underlie all efforts to restrain charges for public services within reasonable limits. If they are sound and correct principles the mere failure to properly apply them to the facts of a given case would not disturb me at all, for I was too long at the bar to be surprised or discouraged with the wide differences of opinion in that field.

The first case to be examined is "*In the Matter of the Hearing as to Whether the Existing Schedule of Rates of the Public Service Gas Co. for Gas is Just and Reasonable.*" (Third Annual Report of the Board of Public Utility Commissioners of the State of New Jersey, pp. 246–310.)

The investigation was made by the Public Utility Commissioners of New Jersey, and related to what is known as the Passaic division of the gas company. The decision is most elaborate, occupying 64 printed pages, and is so well composed and so very lucid that it is impossible to mistake its import or effect. Considered simply as a decision of a particular case it is of little importance, but looked upon as a disclosure of Mr. Daniels's convictions upon the subject of reasonable rates for a public service, and his closely reasoned opinion with regard to the value of property rendering a public service, it is conclusive as to his utter unfitness to assume the power of fixing rates of transportation in the United States.

It may be recalled that when Mr. Daniels's nomination was originally before the Senate I earnestly opposed its confirmation, and the decision in the New Jersey Gas Co. case was the basis of my opposition. Upon this occasion I will try to deal with it upon the assumption that many Senators will remember the argument then made, but knowing that other great subjects have engrossed the Senate in the last two and a half years, and knowing also how easy it is to forget in the midst of our rushing duties, I intend to recall this decision in sufficient detail to be sure that its meaning is firmly in your minds.

Lest I may be accused of concealing an important thing, I say in the very beginning of the review that the Public Service Gas Co. had established a rate of $1.10 per thousand cubic feet of gas, with a rebate or deduction of 10 cents per thousand for prompt payment. Upon the inquiry the rate was reduced to 90 cents per thousand cubic feet, but whether any deduction for prompt payment was permitted is not entirely clear, although as I construe the order it established a flat rate.

It was believed by the commissioners that this rate would yield an annual return of 8 per cent upon the value of the property as fixed by the commissioners. I have heard, though not authentically enough to submit it as a fact, that the return in the years that have elapsed since the decision has been very much larger than 8 per cent. However that may be I do not look upon it as at all material.

The 64 pages upon which the decision is published are almost wholly devoted to the ascertainment of the value of the property and the announcement of the rules governing investigations of that character. Roughly speaking, the tangible property could be divided into two classes: First, the real estate; second, the structures of various kinds built upon the real estate, or upon or in the streets and public places of the several municipalities. The value adopted for the real estate was $111,160, and while I am not ready to concede the correctness of the rule laid down, the item is of minor importance. The structures upon and in the ground were then considered. I do not care to detain the Senate with an analysis of the rather curious process adopted to reach the result as to the value of these structures as such. I note only that the cost of reproduction seems to be the guiding rule.

The point I desire to make, and it is here that a fatal departure from sound principles was first made, is that after ascertaining the value of all structures as such there was added 17.6 per cent for indefinite expenditures called "overhead charges." This addition amounted in the aggregate to $542,774.46, which in this small enterprise was forever imposed upon these communities as a public debt. It is only fair that the reasoning of the commissioners upon this item be stated. I quote from page 263 of the Third Annual Report of the Board of Public Utility Commissioners of the State of New Jersey:

"To the estimate of bare cost there must be added certain allowances for expenditures generally called overhead charges. Forstall's appraisal included a total allowance of 15.54 per cent; Randolph allowed 20 per cent; Stone & Webster, 20.5 per cent; Humphrey & Miller allowed approximately 21.7 per cent. Forstall had, however, stated that an additional 2 per cent ought to be added to the allowance. This is best explained by quoting from the letter transmitting his proposal to the board. It runs as follows: 'In these charges we cover only engineering and supervision, commissions, contingencies, and interest during construction. We have taken engineering and supervision at 5 per cent. Omissions, in view of the careful inventory, at only 2 per cent, and contingencies at 2 per cent. The allowance for interest is based upon a period for and a progress of construction that would call for an average payment of interest at the rate of 6 per cent for one year on the total amount expended. It will be seen that the overhead charges applied do not include any organization expenses, liability for accidents, and damages during construction, nor taxes during construction. Without the value of the land and the uncertainty as to the extent of the liability for accident under the existing laws, we have not felt able to fix a definite percentage for the omitted items, but think that they should amount to at least 2 per cent of the total before any overhead charges are applied.'

"Eleven per cent should, therefore, be added before computing the interest at 6 per cent, this making a total of 17.6 per cent.

"After due consideration we accept this figure as the fairest estimate for these allowances, and apply it in connection with each class of property."

This was said and the thing was done, notwithstanding the fact that not a word of testimony had been introduced showing that the company had ever made any such expenditures or that any such capital remained idle during any such period.

This was said and the thing was done, notwithstanding the perfectly obvious truth that the company or its predecessors had been making and selling gas for many years, had been charging exorbitant prices for it, and that whatever expenditures had been made or whatever idle capital to be rewarded the earnings of the company had been ample to cover, and had covered all such items.

Under such circumstances the addition of 17.6 per cent to the actual value of the property; to require the people of these communities to pay for all time 8 per cent upon the imaginary value of $542,774 was so flagrantly wrong that I for one am not willing to give Mr. Daniels the power which will enable him to apply the rule to the property of the carriers of the country. In these days $542,764 does not seem to be a very large sum of money; but suppose Mr. Daniels is permitted to add under similar circumstances 17.6 per cent on account of these fugitive overhead charges to all the structures, improvements, equipment, and facilities of the railway companies. Instead of a half million wrongfully added to the value of the gas property we will have billions wrongfully added to the value of the railway property, and it will not be long until that very question will be presented to Mr. Daniels for decision if he continues to be a member of the commission.

I will not dwell longer upon the addition of an intangible 17.6 per cent to the real value of structures lest the impression be created that this addition is the chief mistake of the decision. It is bad enough, but it is only the beginning. It simply opens the door into a broader field of error. The utility commissioners found that the value of the real estate and the structures with the 17.6 per cent added was $3,737,980. They then added $250,000 for working capital, although there was no showing that in actual experience any such amount was in fact used. I make no complaint of the allowance, however, for the mistake shrinks into insignificance when we come to consider the next step. The aggregate of all these items of property, including real estate, working capital, and the 17.6 per cent overhead charges, was found to be $3,987,980. It would seem that the gas company ought to have been content with this swollen valuation; but not so. It presented another item classified as "Other intangible gas capital," and under this head the commissioners considered the subject of "Going value" or "Going concern value." The discussion of this item, long and labored, stands alone in all the literature of rate regulation. It fills 12 pages of the opinion (278–289, inclusive). The outcome of the reasoning was an allowance of $1,025,000 for "Going value," substantially 30 per cent of the structural value with the 17.6 per cent added. This extraordinary process brought the valuation up to $5,012,980, which sum, after a deduction of $62,000 for expenditures after the date of the examination and $200,980 for depreciation, left $4,750,000 as the value for the determination of a yearly return.

In order to show just what was accomplished in this performance I recapitulate: The value of the property, including real estate and working capital, but excluding the intangible 17.6 per cent and the intangible $1,025,000, was $3,182,326, as against $4,750,000 which the commissioners made the basis for return. That is to say, the gas company was allowed rates that would exact a yearly return upon $1,567,774 in this small affair in excess of the actual worth of the property and in excess of any independent investment in it. I shall presently consider the reasonableness of the rate of return, which was 8 per cent, but at this moment I content myself by calling attention to the fact that assuming the rate fixed would yield no more than 8 per cent per annum, this intangible allowance has cost, and will continue to cost for all time, the people of those communities $125,411 per year.

I go back now to a brief examination of the reasons given by the commissioners for the extraordinary allowance of $1,025,000 as "Going value." They quote first the definition of the terms proposed by counsel for the gas company, viz, "Value of the plant and business as a whole in excess of the value of the special franchise and cost of the tangible plant" (p. 278). They quote the definition of a witness, Mr. Forstall, viz, "Development value, the cost of getting the business and development charge * * * the excess of a gas property in operation as over a similar gas property with the same or similar structures, but without consumers attached" (p. 278). And they finally say, "This is the value a utility property has or may have over and above the value of its tangible belongings" (p. 278). Again (p. 279), "the 'Going-concern value' will then be largely represented by the cost of

developing the business as distinct from the cost of securing the physical structure."

After these somewhat vague suggestions and definitions the commissioners proceed to the allowance of the substantial average of the opinions of a series of the witnesses whose estimates are absolutely arbitrary and seem to grow out of the experiences of the industrial enterprises from which they came. They made no inquiry whatever into the expenditures actually made by the gas company in securing or developing the business it then had, although they assume that these expenditures had been made as a part of the operating cost of the plant as it gradually grew.

I do not intend to discuss at length the soundness of admitting any intangible item in the valuation of public utility property, although my personal opinion is unalterably against it. I recognize that in the beginning and throughout the whole career of a public service corporation there are expenditures which must be met in order to develop the business which can not be made a part of the value of any particular physical structure. I recognize that for these expenditures the corporation must be reimbursed, either from a capital fund or from the fund for operation and maintenance. They properly belong to the latter and are usually made good from it. If they are taken from independent capital, I agree that they should enter the basis on which a return is to be computed. They have, however, nothing whatever to do with the value of the property, and before any allowance is made for them it must be shown that they were in fact made; and it must be further shown that they were not, as they should be, part of the cost of operation and maintenance. It is assumed in the decision of the New Jersey commissioners that the cost of developing the business was paid from the revenue of the company, but nevertheless such cost was not only treated as capital but was made a part of the value of the physical structures. The reasoning of the commissioners upon this point deserves attention. I quote from page 279, et seq.:

"The second query raised asks whether such 'Going concern value' should be included in the basis on which public utilities are entitled to a fair return in case the costs involved in developing such 'Going concern value' have been made out of rates exacted from consumers To this our answer also is in the affirmative, so far as it does not appear that the rates exacted from the consumers were legally challenged. If in the past this gas company out of the rates exacted from consumers had made its operating expenses and depreciation, and in addition thereto had obtained enough to pay returns to investors and to build an actual structure used in the business, would this structure aforesaid be a lawful property of the company? The answer it seems to us must be in the affirmative. If the company had paid out, in addition to other payments to investors, dividends equal to the cost of building this structure, and then had issued additional stock in value equal to the cost of this structure in order to repossess itself of the money required to build it, there can be no doubt that the structure built out of the proceeds of the additional securities thus sold would be the lawful property of the company. It would be none the less the company's lawful property if built out of current earnings without the issue of additional securities."

This is the technical analysis resorted to by the commissioners to justify their action. It is utterly unsound; but even if it were approved it would not follow that money paid out for advertising, solicitation, and the like would be properly chargeable to the same account as money paid out for the construction of a new building. To me it is monstrous to assert that the customary expenditures of a public-service company, made in the effort to enlarge its business from a fund created by its ordinary operating revenues where revenues are sufficient after paying all these expenses to reward capital with a due return, are to be made the basis of a "going value" of practically one-third the value of all tangible property. I repudiate the whole theory. It is vicious from every standpoint. It is the corner stone of the overcapitalization which now menaces all of our attempts in the regulation of common carriers. The speculators who ruined the Chicago & Alton Railroad had just the same idea of public-utility economics when they substantially trebled the capitalization of the railroad company, adding but a few millions to the actual property. They examined the books which recorded a long and honorable business and capitalized the sums which had been paid out of revenues in the betterment of the railroad, and in a few months a road which had been highly successful for more than a quarter of a century was absolutely insolvent.

If Mr. Daniels, in his place as a member of the Interstate Commerce Commission, should be able to apply the rule which he tried to defend in the Gas Co. case, the consequences would be more than disastrous; they would be terrifying. Imagine, if you can, what would happen if there should be added to the value of the physical property of the railways, first, an arbitrary overhead charge of 17.8 per cent, and then crown his work by superimposing upon the whole mammoth sum a "going value" of 30 per cent. We know that a large part of the present capitalization of the railway corporations was issued without consideration, but if Mr. Daniels's plan for valuation should be adopted I venture to predict that the basis for rate making would exceed the existing capitalization by more than $6,000,000,000. Those who become responsible for giving a man, however talented, an opportunity to work out in railway valuation these strange and extravagant opinions will never forgive themselves for the grievous error they are about to commit. As for myself, I refuse to participate in any such blunder.

I pass now to that part of the New Jersey decision which fixes the charge per thousand cubic feet which the commissioners established. I quote the last paragraph of the decision (p. 309):

"In our judgment, based on all of the evidence and consideration of all the facts, a rate of 90 cents per thousand cubic feet will furnish a fair return at not less than 8 per cent on the value of the property used and useful in supplying the customers of the Public Service Gas Co. in the Passaic division."

Mr. Daniels seems to have been of the opinion that a minimum return of 8 per cent upon the swollen and exaggerated value which I have been discussing would be just and reasonable. As I have once suggested, the rate fixed has yielded, as I am informed, greatly more than 8 per cent. But I am quite willing to judge Mr. Daniels by the standard which he had in mind. What does 8 per cent per annum upon the value as found by the commissioners mean? It sufficiently appears from the decision that one-half or more of the capitalization of this value was represented by bonds bearing interest at the rate of not more than 5 per cent per annum. If I assume that the other half was represented by capital stock, the result is a yearly dividend of 11 per cent, or a dividend of 9 per cent with 2 per cent for surplus. This goes far beyond even the claims of public-utility companies, and if Mr. Daniels finally succeeds in adjusting railway rates upon this basis, he will impose a burden upon the people of the country so heavy and unjust that instant rebellion would be the result.

I do not review the decisions of either courts or commissions respecting the proper rate of return upon capital stock, for all of you are familiar, in a general way, with them. I content myself with saying that hitherto no other tribunal has ventured to the extreme point which the New Jersey commissioners reached so easily.

With this record behind him, Mr. Daniels became, in the spring of 1914, a member of the Interstate Commerce Commission, and I propose to examine two vitally important cases in which he was the leading figure, and in which his views finally prevailed. In doing so I find it necessary to consider four great cases, epochal in their character, and which mark the beginning, progress, and end of a successful effort on the part of the railway companies to overthrow the interstate-commerce law, and to convert the commission into an instrument for the maintenance of the stock markets of the country and of fictitious values upon worthless securities.

I regret that this work has not fallen into hands more competent than mine, but, inasmuch as it is certain that it ought to be done, I intend to do it with such thoroughness as I can command and, I hope, with the utmost candor and fairness.

These cases are known in the reports of the Interstate Commerce Commission as follows:

"In re Investigation of Advances in Rates by Carriers in Official Classification Territory—Eastern case. (20 I. C. C. R., 243.)

"In re Investigation of Advances in Rates by Carriers in Western Trunk Lines, Trans-Missouri and Illinois Freight Committee Territory—Western case. (20 I. C. C. R., 307.)

"In re Rates Increased in Official Classification Territory—The Five Per Cent case. (31 I. C. C. R., 351.) The rehearing of the same case. (32 I. C. C. R., 325.)

"In Western Classification Territory—Western Rate Advance case. (35 I. C. C. R., 497.)

These cases are closely connected with each other. They are chapters of an interesting although not encouraging history. A general glance toward their origin and development will be helpful in securing an understanding of their purpose and import.

In 1909 the railroads initiated a definite campaign against the Federal regulation which was originally established in 1887, and which had been materially strengthened in 1904 and 1906. The general claim was that the system was one of repression and correction, and lacked every element of sympathy or aid; that the outcome up to that time had been to deny the railroads the revenues to which they were justly entitled, to disparage and depreciate their securities in the markets of the country, and to disincline investors to embark their capital in railway enterprises. And this notwithstanding the fact that the railroads everywhere were receiving more for like service than they had received prior to the enactment of the interstate-commerce law or prior to the amendment which put an end to rebates and discriminations; that their net revenues were greater in proportion to either their capitalization or property accounts than ever before, and despite the fact that their securities had risen steadily in the markets and then commanded a much higher place than when the Government adopted its first measure of regulation.

The campaign was conducted with the greatest energy through magazines, newspapers, pamphlets, speeches, boards of trade, and all sorts of organizations. It was stimulated in a degree, no doubt, by the knowledge that Congress was about to undertake a somewhat comprehensive revision of the interstate-commerce law. That it had a profound effect upon the form of the bill which the then chairman of the Interstate Commerce Committee of the Senate introduced, and which was reported to the Senate, I have no doubt. Fortunately, however, the bill was so amended on the floor of the Senate that some of its most objectionable features were eliminated, and some very effective provisions added.

It will be remembered that under the law railway companies initiated their rates by filing with the Interstate Commerce Commission their tariffs. Until 1910 the only way of attacking rates was through a proceeding challenging their reasonableness, but one of the amendments of 1910 gave the commission the power to suspend new tariffs and to try them before they became effective, and in case of increased rates put the burden of proof upon the railways to establish their reasonableness.

In the spring and summer of 1910 substantially all the railway companies of the country came together and agreed that they would file similar tariffs for a general advance, and this was done. It seemed to be rather plain that this sort of action was in violation of the antitrust law, and the Attorney General instituted suits to enjoin further offenses against the law. The railroads postponed their proposed tariffs, and in the meantime the act of June 18, 1910, was passed, and under it the Interstate Commerce Commission originated an inquiry into the reasonableness of the increased rates. The investigation was divided into two cases: First, the rates in official classification territory, known as "Advances in rates"—eastern case; second, the "Advances in rates in western trunk-line, trans-Missouri, and Illinois freight committee territories," known as the western case. After exhaustive hearings and arguments both cases were decided February 22, 1911. Mr. Prouty delivered the opinion in the eastern case and Mr. Lane in the western case, and both were emphatically against the increases in rates.

The campaign, however, continued with still greater energy, and when it was believed that public sentiment had been sufficiently aroused the railway companies again attempted to accomplish the same general purpose. In 1913 the carriers in official classification territory filed tariffs proposing a general increase in freight rates ranging from 3 to 50 per cent. It was estimated that the increase in gross revenue would be substantially 5 per cent, and therefore the case is known as "The Five Per Cent case." The tariffs were suspended, and again the whole subject was examined. It was decided July 29, 1914. Lane and Prouty, who had so valiantly resisted the first attack, had ceased to be members of the commission, and Mr. Daniels had taken the place of one of them. Nevertheless, five members of the commission remained firm, and, with some proper exceptions, denied the claim of the railroads, although they opened the gate to the Trojan Horse. Here Mr. Daniels first appears. He dissented from the decision of the majority in an opinion which I shall examine later on—I am treating the matter historically just now.

The campaign proceeded until it seemed to bring under its influence all the forces of the Government. Just what effect these appeals, suggestions, and assaults from the outside had on the commission I do not know; but at any rate, the commission, led, as I believe, by Mr. Daniels, in October of the same year granted a rehearing. It was resubmitted and again decided on December 16, 1914. Three of the five members

who had denied the increases in July gave way, and, following Mr. Daniels, the dissenting opinion of July became the decision of the commission in December. The increases, with some exceptions, were approved.

The first battle was won, but the campaign was still on, for the western country had still to be captured. The struggle in western classification territory continued with undiminished vigor. The case was submitted June 26, 1915, and was decided July 30, 1915.

This concludes the story of the most notable contest ever carried on in the United States. The outcome has been not only to add fifty, seventy-five, or a hundred million dollars annually to the revenues of the railway companies, but to set up a new standard for the measurement of charges for a public service; a standard not only unwarranted by the law, but directly contrary to the law—a standard which, if perpetuated, will wreck the whole system of regulation. If the outcome in the contest had been to increase railway revenues because the higher rates proposed were just and reasonable, I might differ from the commission respecting the weight of the evidence submitted, but I would not think of challenging the result. It is because Mr. Daniels, leading the commission, has ignored the law and exercised an authority which never has been and never will be conferred upon any commission, and it is because I know the fatal consequences which must follow the exercise of the authority that I am constrained to say that the man who usurped such authority ought not to be continued on the commission.

I proceed now with an analysis of these cases. I am sorry to detain the Senate for so long a time, but I can only promise that I will be as brief as is consistent with the duty I have undertaken.

Generally, let me say that for the purposes of this argument I accept every fact stated in these five decisions, in so far as it relates to the property, capitalization, earnings, and expenditures of the railway corporations under consideration, for I am judging Mr. Daniels by the record and not upon my own opinion respecting the matters I have just mentioned. Fortunately, I will have occasion to refer to but few of the statements of fact with which the decisions are crowded.

I take up, first, the Eastern case of 1910. It involved the rates in official classification territory, which, roughly speaking, is bounded on the north by Canada, on the east by the Atlantic, on the south by the Potomac and Ohio Rivers, and on the west by the Mississippi River. In this territory there are three divisions mentioned in the case, viz, New England Freight Association territory, lying east of New York; Trunk Line Association territory, lying between Buffalo, Pittsburgh, and New York; Central Freight Association territory, lying between the Mississippi River, Chicago, and Pittsburgh. The general claim of the railroads was thus stated in the opinion (p. 247):

"These advances are justified by the defendants upon the ground that the cost of operation has so increased that, although gross operating income has continued to grow, the net operating income has become and is insufficient. * * * The justification presented by the carriers is one of additional revenue, and the question presented to us is, Are these defendants justified in laying this additional transportation burden upon the public for the purpose of obtaining greater net revenue?"

The first comment, made by Commissioner Prouty, upon this contention is as follows:

"Strictly speaking, this commission has no jurisdiction to hear and determine that question. We have no authority as such to say what amount these carriers shall earn, nor to establish a schedule of rates which will permit them to earn that amount. Our authority is limited to inquire into the reasonableness of a particular rate or rates and establishing that rate or practice which is found lawful in place of the one condemned as unlawful."

After further explanation of the point, the opinion says (p. 248):

"When, as here, there is involved the propriety of advances which affect the entire rate fabric within this territory, embracing one-half the tonnage and one-half the freight revenues of this whole country, and when that advance is justified mainly upon the ground, not of commercial conditions, but by lack of adequate revenue upon the present rate basis, this commission must determine the fundamental question.

"It might not follow, even though we were of the opinion that these carriers were entitled to additional revenue, that they ought to obtain it from an advance of these particular rates. We might be of the opinion that only a portion of these advances should have been made or that other articles altogether should have been selected. It might be true that even though there were no need of additional revenue some or all of these rates could be properly advanced, but as this case is presented and as preliminary to the consideration of these further questions we must dispose of the basic question: Are these defendants justified at this time in demanding additional revenues from the public for the services which they are rendering?"

The commission, after thus stating the general question involved, reviews the whole history of railway construction, capitalization, and financing. It dwells upon the fact that neither the property account kept by the railroad companies nor the capitalization is at all reliable in determining the value of the property upon which a return is to be allowed. It points out the great difference in the dividend-paying capacity of the 35 systems which comprise substantially the railroads operating in the territory under consideration. For instance, it suggests that the Delaware, Lackawanna & Western had a corporate income for the year 1910 amounting to 49.77 per cent upon its outstanding capital stock, having grown to that figure from 16.63 per cent in 1901; also, that the Lake Shore & Michigan Southern Railway Co. not only paid a dividend of 18 per cent upon its stock in 1910, but added $5,000,000 to its surplus.

These observations brought it to a consideration of this question: Should the condition of the very strong or the very weak railroads be taken as the basis for the ascertainment of an adequate revenue? It reached the conclusion in accordance with the holding in the Spokane case (15 I. C. C. Rep., 376) and the Kindel case (15 I. C. C. Rep., 555) that a medium course should be pursued. It therefore segregated three systems, viz, the Pennsylvania, the New York Central, and the Baltimore & Ohio, remarking (p. 274):

"We do not mean that other lines should not be considered, but that these systems may be taken as typical. Under rates reasonable for these three systems there may be lines whose earnings will be extravagant, but this is their good fortune. There may be lines which can not make sufficient earnings, but this is their misfortune. We ought not to impose upon this territory for the purpose of allowing these defendants additional revenues higher rates than are adequate to these three systems considered as a whole."

The Baltimore & Ohio was first examined. Its property investment account in 1909 was $406,000,000, its capitalization in 1910 $565,000,000. From the earnings of 1910, and after an allowance for an increase of wages, which was imminent, it was found that it could pay cost of operation and maintenance, taxes, interest upon all its bonds, dividends upon its preferred stock, a dividend of 6 per cent upon the common stock, and carry to surplus $2,776,000. This, in view of the fact that it was perfectly well known that the capitalization vastly exceeded the investment, was thought to be quite sufficient. The commission then turned to the Pennsylvania system, which is all interwoven owning and holding companies. It is composed of about an hundred railroads. It is generally supposed that this is the one system decently capitalized, and it is unquestionably true that in recent years its stock has been issued for full consideration. But in the combination there was as much water in the stock as can be found in any capitalization. The report of the system is a complicated one, and I will not enter it. It is sufficient to say that its dividends have always been good, the market value of its stock high, and that a very large part of its extensions and betterments for the last 30 years have been paid for out of earnings. The commission had no difficulty in reaching the conclusion that no increase in rates was necessary in order to enable it to adequately reward its owners. The same conclusion was reached with respect to the New York Central. And the commission held unhesitatingly that the railway companies had not sustained the burden of proof which the law imposes upon them—that is to say, had not shown that the proposed increased rates were just and reasonable—and it therefore denied the increases.

The principles of law announced in this decision are: First, that when a group of railroads, acting evidently in concert, propose general increases in rates it is lawful to inquire whether the aggregate earnings are adequate to yield a fair return upon the value of the property rendering the service; second, that in making the inquiry types may be selected as fairly representative of the entire group; third, that if it were found that the earnings, so considered, are not adequate it would still be necessary for additional proof showing that the increased rates are just and reasonable.

The conclusion of the decision is that the earnings of this group of roads, to and including 1910, were adequate. It became unnecessary, therefore, to enter the further inquiry. The standing of the securities in the stock markets of the country at any given time was expressly repudiated as an element for consideration in determining the reasonableness of the proposed rates.

Passing on to the Western case, decided at the same time, it will be sufficient to say that it covered proposed increases upon some 200 commodities and involved more than 200 railroads operating in the States of Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, Kansas, and Montana. The opinion was delivered by Mr. Lane, and, together with the opinion of Mr. Prouty in the Eastern case, constitutes the most luminous and instructive exposition of the law of rate fixing, the mutual rights of common carriers and the public, which can be found in the literature of this or any other country. Not only so, but they furnish the most reliable and satisfactory information respecting the history and operation of the railroads within my knowledge.

I can not reproduce Mr. Lane's unanswerable argument, but if anyone desires to know how far Mr. Daniels has departed from both the law and the morals of the subject, he ought to read with care the brilliant and uncontrovertible reasoning of Commissioner Lane. Adopting the principle of the Eastern case, he also selected types for the western group, namely, the Chicago & North Western; the Chicago, Milwaukee & St. Paul; the Chicago, Rock Island & Pacific; and the Chicago & Alton. He found that the earnings were adequate, and I only wish that I dared to consume the time to pass through his analysis of the property investment accounts and the capitalization of these companies. The opinion is especially important in that, for the first time, the claim made by the railroads that the betterments and extensions made from surplus earnings are to be considered as though made from independent capital is squarely met and emphatically overthrown. For the first time, also, the alleged increase in the value of the rights of way is dealt with courageously; and for the first time the relation of rates to great and expensive terminals which do not add to the economy or volume of business is given serious consideration.

The cry that became the watchword in 1913, "We need the money," was heard in this proceeding, and Commissioner Lane's response is a classic. The principles laid down are exactly the same as those announced in the Eastern case, and the ruling is identical.

Remember that these two cases adjudicated the situation up to the year 1911. In 1913 the Five Per Cent case (31 I. C. C. R., 351) was brought forward. It involved the same railroads, the same territory that were considered in the Eastern case, which I have examined at length, and covered many additional rates. The initial question was the same, namely, "Do the present rates of transportation yield to common carriers by railroad operating in official classification territory adequate revenue?" (p. 355).

The only evidence additional to that produced in 1910 consisted of the reports and accounts of the railroads for the years 1911, 1912, 1913, and to July 1, 1914. The comparisons shown in the tables, which are made a part of the opinion, are mainly based upon the property investment accounts, simply because there was no other showing with regard to the value of the railway properties. It had been declared over and over again by the commission that these accounts as kept by the railway companies were exceedingly unreliable, and it is, I think, recognized that with respect to most railroads the account far exceeds the value of the property.

Just as an illustration it may be interesting to note that the valuation division appointed by the Interstate Commerce Commission has completed its work with respect to four small railway systems, and I am able to compare the result of the work with the property investment accounts and capitalization of each of these roads.

First, the Kansas City Southern Railway Co.:

Its capitalization is	$99,052,000
Its property investment account is	47,278,760
Its cost of reproduction, less depreciation, including value of land, is	25,257,880

The Atlanta, Birmingham & Atlantic Railroad Co.:

Its capitalization is	$54,561,000
Its property investment account is, including nearly $3,000,000 expended by receivers	53,326,000
Its cost of reproduction, less depreciation, including the value of land	21,700,223

The New Orleans, Texas & Mexico Railroad Co.:	
Capitalization	$40,936,000
Property investment account	32,174,000
Cost of reproduction, less depreciation, including the value of land	7,714,000
The Texas Midland Railroad Co.:	
Capitalization	$2,112,000
Property investment account	3,474,000
Cost of reproduction, less depreciation, and including value of land	2,763,000

It needs but a moment's consideration of these figures to demonstrate that whatever may be the value of railroad properties, their property investment accounts are greatly in excess of their true value, unless an extravagant allowance is made for the increasing value of the rights of way.

I have always believed that under the amendment of 1910 it was incumbent upon a railway company desiring to increase its rates, the increases having been suspended, to prove by some kind of competent evidence the value of its property. None of the railway companies concerned in the 1910 proceeding attempted to make any proof of this character. The commission, for want of anything better, really accepted for the time being the property investment accounts. It must be obvious, however, that in so doing it should not have required a high ratio of net operating income in order to reach the conclusion that the returns were adequate. The whole case was really judged by the table found on page 367, the last column of which gives the ratio of net operating income to property investment account. The table covers the entire period from 1899 to 1914. I do not concede the correctness of the plan through which the averages were ascertained; but, adopting it for the moment, it will be seen that the percentage of return for 1911 was 5.23 per cent, for 1912, 5.19 per cent, and for 1913, 5.36 per cent. These are the three years which had intervened since the former decision, and there is no such inadequacy in these returns as to warrant a reversal of the former opinion. The average ratio of the years 1908, 1909, and 1910 was 5.69 per cent; the average of the three following years was 5.26 per cent, the difference being only forty-three one-hundredths of 1 per cent.

I mention these facts not for the purpose of criticizing the final conclusion of the commission, but to show the exceedingly slight basis for it. With many of the roads, and this is markedly true of the larger systems, the ratio of net corporate income to the capitalization, excessive as that may be, is large enough to satisfy the demands of the most exacting. But I do not intend to complicate this argument by extensive tabulation. I must, however, call attention to this fact: That when it is remembered that nearly two-thirds of the capital of all the railroads is represented in bonds which bear less than 4½ per cent interest, a ratio of 3.36 per cent (that of 1913) upon the whole capital means more than 7 per cent upon the stock capital. I am therefore compelled to believe that if the finding in the 1910 case, to the effect that the revenues were adequate, is sound, the finding in the 1913 case, that they were not adequate, is unsound. This phase of the matter, however, is not so important to the entire consideration, and I mention it only to show the gradual yielding of the commission to the tremendous pressure brought to bear upon it. Notwithstanding the finding that the net operating income of these roads was insufficient in the broad sense, it was declared (p. 404):

"We find that the financial condition of the trunk line carriers does not warrant a general increase of freight rates, and shall also show that the needs of the New England lines are being cared for locally. The carriers failed to prove either that the existing rates in trunk line or New England territories are too low or that the increased rates proposed for those territories would be just and reasonable rates. Nor have they proved that the existing interterritorial rates in official classification territory are too low or that the proposed increases in those rates would be just and reasonable. The carriers will be required, therefore, to cancel all the tariffs in which these rates are proposed."

It will be recalled that the commission found that sufficient evidence had been offered that certain rates in Central Freight Association territory should be increased; not, however, as the result of the investigation as to adequacy of revenues. I have always regretted the inconsistency between the finding in the 1910 case and the finding in the 1913 case. But the matter was plainly within the jurisdiction of the commission, and I have never criticized its judgment in this regard. I have never criticized it, because the five members of the commission who joined in the latter decision proceeded according to law, and whether they were mistaken in their conclusion or not they respected the authority under which they acted. Mr. Daniels, however, dissented, and the reasons for his dissent furnish one of my objections to his confirmation. He reverses all previous decisions of the commission when he says (p. 435):

"The testimony offered by the carriers deals mainly with insufficiency of return. Such testimony is germane and proper. Evidence establishing general inadequacy of return impeaches the general reasonableness of rates which result in such inadequate return. It is not conclusive evidence that rates are unduly low, but it creates a reasonable presumption to that effect, and it suffices to meet the burden of proof cast by the law upon the carriers which propose rate advances."

This, in my judgment, was a fundamental error, but it was only an error. It was not usurpation. I will not attempt to point out what I regard as the fallacies of his averages or the mistakes in his statistical conclusions, for they shrink into insignificance in the light of his startling views as to the tests in rate making. I quote again (p. 453):

"Expected earnings constitute in the last analysis the bid which the carriers must make for new capital for needed improvements, extensions, new rolling stock, and similar purposes. It is not necessary to say that on such a showing the investing public will hardly be eager to intrust its funds to transportation enterprises. Where well-secured, long-time bonds bearing 4½ per cent interest command little over par only on the prospect of a much higher rate of return, it is clear that the carriers must make a better showing of net revenue before they can as a whole enlist large additional supplies of capital."

The meaning of this, as I gather it, is that no matter how exaggerated the basis of value may be, the rates must be such as will keep the stocks of railway corporations favorites in the market; that is to say, the people must pay for all the financial mistakes, crimes, and mismanagement of a half century of conscienceless promotion.

I can not bring myself to believe that one who looks at the railway problem from any such standpoint should be intrusted with the authority conferred upon the Interstate Commerce Commission.

If this were all that Mr. Daniels has said, it might not be enough to warrant the rejection of his nomination; but, unfortunately, this is not all.

A supplemental hearing of the case was ordered, and it was again submitted October 30, 1914, and the decision upon the rehearing was rendered December 16, 1914. The opinion is "By the commission." I do not know who wrote it, but inasmuch as it carries into effect the views which Mr. Daniels expressed in his dissent, I assume that it is his production, directly or indirectly. The order for the further hearing contains this provision (32 I. C. C. Rep., 326):

"Said hearing to be limited to presentation of facts disclosed and occurrences originating subsequently to the date upon which the records previously made in these cases were closed."

The "facts disclosed and occurrences originating" subsequent to the former decision are, first, the reports of the railway companies from the 1st of June, 1914, to the 1st of October, 1914.

As to these facts, all that need be said is that 1914 was a bad year for all kinds of business, and was recognized by everybody as abnormal.

Second, the war in Europe, with the probability that railroad securities held abroad would be dumped upon the American markets, and that this would force down the price of such securities and result in a disturbance to insurance, banking, and industrial enterprises. Ridding the opinion of all its pretense, it is perfectly obvious that the thing really considered on the rehearing as sufficient to reverse the former order was the effect which an increase of rates would have upon the general business of the country. I quote (pp. 329–330):

"The war in Europe will doubtless create an unusual demand upon the world's loan fund of free capital, and may be expected to check the flow of foreign investment funds to American railroads. It appears that our railroads represent the bulk of European investment in this country. The rate of interest—the hire of capital—has risen during the last decade and may rise still further. It is computed that in the years 1915, 1916, and 1917 the carriers in official classification territory must arrange for the payment or refunding of securities aggregating over $500,000,000. True, the representations of the carriers in the 1910 cases, that without the increases then sought their credit must totally vanish, proved strangely at variance with their subsequent experience in the borrowing of many hundreds of millions. But we do not doubt that the financial problems of the carriers have been made much more acute by reason of the war, and if we are to set rates that will afford reasonable remuneration to these carriers, we must give consideration to the increased hire of capital as well as to other increased costs. * * * While we differ as to the relative importance to be attached to the various considerations presented, we agree in the conclusion that, by virtue of the conditions obtaining at present, it is necessary that the carriers' revenues be supplemented by increases throughout official classification territory. Whatever the consequences of the war may prove to be, we must recognize the fact that it exists, the fact that it is a calamity without precedent, and the fact that by it the commerce of the world has been disarranged and thrown into confusion. The means of transportation are fundamental and indispensable agencies in our industrial life and for the common weal should be kept abreast of public requirements."

Thereupon, the original decision was reversed, and the increases, with some exceptions, were allowed. When the volume and profits of the railway business for the two years which immediately followed this decision are considered, it makes one shudder to reflect upon the frailties of government. The point is, however, that the decision upon rehearing, made by five members of the commission, is an arbitrary, unauthorized act of power. It is a clear usurpation. It, and another decision which shortly followed, have imposed upon the people of this country during the last two years an unjust burden of anywhere from fifty to a hundred and fifty millions of dollars; and the injustice will repeat itself every year until a remedy is applied. Two members of the commission, Mr. Harlan and Mr. Clements, dissented. Commissioner Clements said (p. 337):

"In my view the foregoing report and decision constitute a new and radical departure and a most serious and portentious step, in that by this step the commission is shown to deem itself justified in sanctioning these increased rates in the latter territory upon consideration of general financial and operating results, without resorting to other ordinary tests or factors heretofore deemed pertinent and necessary to the determination of the reasonableness of rates. I am not aware of any prior case in which this commission or any court has held that the need by a carrier of money was of itself proof of the reasonableness of a specific rate or body of rates increased to meet such need."

Again (p. 337):

"If the basis of the conclusions of the majority of the commission sanctioning these rates in trunk-line territory is sound, and points to the rule of action for the future, the burden placed by the law upon the carriers to justify increases in rates is, indeed, made light and easy to carry, especially when by concerted action a group of carriers, some strong and some weak, simultaneously propose to increase the great body of their rates."

And again (p. 338):

"If the legislative authority of the commission is as broad and unrestricted as this, then I must confess that I have gravely misunderstood the limitations upon our statutory authority as well as the constitutional power of Congress to delegate its legislative power."

Again (p. 340):

"If, now, to strengthen and maintain the credit of the carriers, regardless of the causes of its exhaustion or impairment, and without the application of the usual tests of reasonableness, these increases are jutified, then it seems to me that we are only at the beginning of what I fear will be a train of demoralizing results, disappointing and embarrassing to all concerned. It is by no means certain that it would not, in the long run, be cheaper to the public to guarantee the bonds of the weak roads unable to meet their obligations, rather than to try to take care of them by increased rates, which inure to the strong roads as well as the weak."

I now raise the curtain on the last act of this five-year tragedy. It is the opinion and ruling of the commission in the Western Rate Advance case. (35 I. C. C. R., 497.) It involved the proposed increase upon about 200 commodities in a territory which is substantially, but not accurately, described as lying between Chicago on the east and a line running north and south through the United States through Denver.

There are a great many railroads operating in this region, but, as everybody knows, a very large part of the business is done by comparatively few systems, the names of which are familiar to every Senator.

The opinion was delivered "by the commission." I do not know who prepared it, but it reflects in part the views which Mr. Daniels expressed in his dissent in the Eastern case of 1913, views which are really the logical sequence of the doctrines held by the utilities commissioners of New Jersey. The opinion disturbs me because it goes much beyond the safe limits of sound regulation, as I shall presently point out. Mr. Daniels not only concurred in the increases allowed in the opinion, but he dissented because greater increases were not permitted.

Here, again, the principal inquiry related to the sufficiency of the aggregate net operating income to meet the needs of all these railroads, and again we have presented a bewildering, intangible series of tables with their erroneous and misleading statements. It is to be said, however, that the case did not call for the extraordinary and unlawful assumption of jurisdiction disclosed in the rehearing of the Eastern case, and my chief criticism of the decision is that after discrediting the property investment accounts and the outstanding capitalization of the railways by pointed references to their known unreliability, the commission finally accepted these values in part at least.

There are some things about the case which stand out with especial prominence, and I venture to mention two or three of them.

First. It is made quite clear that, in the judgment of the commission, rates for transportation must constantly increase as the country develops, as population and traffic become more dense, and as the volume of commerce expands. This is a shock to a good many of us who had been hoping that the general rules of industry would prevail in this field and that rates for transportation could be gradually reduced.

Second. The opinion seems to proceed upon the hypothesis that competent management, honest administration, favorable location, and considering a railroad as a means of carriage instead of an opportunity on the stock exchange, are no longer factors in the great problem of regulation. Or, if factors at all, they have become negligible in the present civilization. This also is a severe blow to those of us who have held firmly to the now obsolete principle that the rewards of life should go to those who deserve them.

Third. For the first time it was suggested that if intrastate rates, and apparently whether fixed by the States or the railroads themselves, are higher than interstate rates this may be accepted as proof that the interstate rates are too low. This is so involved a proposition that I can not ask Senators to take my word for it, and I quote a single sentence from page 589:

"For these reasons we believe that the level of State and interstate rates, which has been so forcefully pressed upon our attention in this case, becomes a material factor in judging of the propriety of the proposed increase of rates."

As authority for such a position there is cited the somewhat famous Shreveport case. (23 I. C. C. R., 32.) I venture to say that the Shreveport opinion, instead of sustaining this new idea, is diametrically opposed to it.

Fourth. There is another thought in the opinion which I have not been able to fully comprehend. Speaking of the comparison between intrastate and interstate rates, it is said (p. 589):

"What this just proportion of the transportation burden should be is a matter which may not be disposed of on the record in this proceeding, but it has been brought to our attention, and can not be ignored in a proceeding involving the propriety of increased interstate rates. 'Propriety' is a broader and more inclusive term than 'reasonableness.'"

If this is to be understood as establishing the rule that rates are to be approved or disapproved according to their "propriety" instead of their "reasonableness," we have indeed lost all the landmarks of the law.

It would be impossible for me upon this occasion to comment upon all the tables and authorities which enter into the opinion; much less can I examine all the statistics with which it overflows; but there is one table so far removed from the mysteries so attractive to experts that I must be permitted to mention it. It is one of the things in the opinion that can be understood by the common mind. It is found on page 559. It gives the dividends actually paid on the common stock of 14 of the railway systems concerned in the investigation; also the percentage on the common stock carried to surplus for sinking funds, additions to property, and the like, the average of both items during a period of 20 years, and the sum of both items for the year 1914.

The average dividend paid on the common stock of the Great Northern—

	Per cent.
For 10 years (1890–1899) was	4.60
For the years 1905–1914	7.00
The dividend paid for 1914 was	7.00
The average surplus for 10 years, 1890–1899	4.825
And for 1905–1914	2.694
For the year 1914	1.80
The average net income for surplus on both, 1890–1899, was	9.425
For 1905–1914	9.694
For the year 1914	8.80

The figures for the Northern Pacific, arranged in the same way, are: 0.20, 7.00, 7.00, 0.839, 3.170, 1.02, 0.639, 10.170, and 8.02 per cent.

The Chicago & North Western are: 5.40, 7.00, 7.00, 3.451, 4.718, 1.06, 8.851, 11.718, and 8.06 per cent.

The figures for the Chicago, Milwaukee & St. Paul are: 2.85, 6.50, 5.00, 2.708, 3.243, 1.31, 5.558, and 6.31 per cent.

The Chicago, Burlington & Quincy: 4.65, 8.30, 8.00, 0.500, 5.373, 8.04, 5.150, 13.673, and 16.04 per cent.

The Union Pacific: 0.00, 9.15, 9.00, 1.571, 7.048, 4.35, 1.571, 16.198, and 13.35 per cent.

Atchison, Topeka & Santa Fe: 0.00, 5.40, 6.00, 1.207, 2.596, 1.41, 1.207, 7.996, and 7.41 per cent.

Southern Pacific: 0.00, 0.00, 0.00, 0.209, 2.127, −4.21, 0.209, 2.127, and −4.21 per cent.

Chicago, Rock Island & Pacific: 3.30, 5.125, 2.50, 0.758, 1.476, −1.17, 4.058, 6.601, and 1.33 per cent.

Missouri Pacific: 0.90, 2, 0.00, −0.877, 0.003, −1.18, 0.023, 2.003, and −1.18 per cent.

St. Louis, Iron Mountain & Southwestern: 0.90, 6.10, 4, −0.097, 1.281, 2.37, 0.803, 7.381, and 6.37 per cent.

St. Louis & San Francisco: 0.00, 0.00, 0.00, 0.209, 2.127, −4.227, 0.209, 2.127, and −4.21 per cent.

Missouri, Kansas & Texas: 0.00, 0.00, 0.00, 0.90, 2.036, 0.44, 0.090, 2.036, and 0.44 per cent.

Texas & Pacific: 0.00, 0.00, 0.00, 1.172, 3.168, 3.83, 1.172, 3.168, and 3.83 per cent.

If you will allow these facts to sink into your minds you will conclude, I am sure, that the Great Northern; Northern Pacific; Chicago & Northwestern; Chicago, Milwaukee & St. Paul; Chicago, Burlington & Quincy; Union Pacific; Atchison, Topeka & Santa Fe; and Southern Pacific have been munificently rewarded, for do not forget that these dividends and percentages of surplus are upon the par of the capital stock. You will easily recall why it is that the Chicago, Rock Island & Pacific does not made an equally good showing. Its startling record in the issuance and manipulation of capitalization is too well known to need any explanation. You know also what territory is covered by these great systems, and you have a general idea of the volume of business which they do as compared with the five other roads. The Missouri Pacific, incompetently managed and indecently exploited; the St. Louis & San Francisco, the victim of pirates; the Missouri, Kansas & Texas, which suffers every misfortune which can fall upon a railway property; and the Texas Pacific, have not prospered, it is true; but to me the wrong of fastening upon the people who are served by 10 amply rewarded railroads the burden of higher rates in order to alleviate the disasters of these 4 unfortunates is unspeakable. It would be manifestly better and fairer if we were to appropriate from the National Treasury the sums required to pay a return upon the actual value of these cripples in the army of transportation.

Objectionable as the decision is in some of its phases and expressions, Mr. Daniels again led the way toward larger revenues by filing a dissenting opinion. He succeeded in making his dissenting opinion in the Eastern case the judgment of the commission after the lapse of a little time, and my fear is that he will ultimately induce the commission to follow him in the western territory.

I quote from the opening paragraph of the dissent (p. 654):

"In the essential outcome of the majority's report I am unable to concur, believing that on the record the carriers have in general sustained the burden of proof cast upon them by the statute and are of right entitled to increases in rates productive of revenue far in excess of what they are accorded by this decision. The reasons for my concurrence or noncurrence in particular findings will be stated later in some detail, but my inability to acquiesce in the general tenor of the report is due to a fundamental divergence from the views of the majority, as I understand them, with reference to certain important considerations which should control in the determination of a case of this character."

I will not review his long analysis of the evidence, but I hope that Senators will examine the entire opinion. Whatever else may be said of Mr. Daniels, he can not be accused of inconsistency, and he carries into this so-called dissenting opinion the extreme views with respect to railway revenues which I have heretofore attempted to point out.

I have said enough to reveal the general situation and the part which Mr. Daniels has played in creating it. Some ignorant or malicious persons will insist that I have a desire to refuse to the railway corporations adequate revenues. It is not so. I believe I am willing to come up to the standard of every fair-minded man who has ever explored the subject. I insist, however, that the present revenues meet these standards, and that they will, if honestly administered, provide a basis for the remuneration of all the property now rendering a public service, and for all additional capital that may be required for extensions and improvements. I refuse to be misled by false alarms or to be deceived by skillfully devised reports, tables, and ratios.

I feel the deepest interest in maintaining the Interstate Commerce Commission high in the confidence of the country. My view of the work of Mr. Daniels in public office has convinced me, and I think it ought to convince everybody, that his retention upon the commission will impair the standing of the tribunal, and that his firmly fixed convictions upon the subject of regulation will ultimately destroy our system of regulation and control.

There are a great many important and honorable offices in the United States which he could fill, I have no doubt, with distinction for himself and with much advantage to the people, and if he were nominated for one of these I would gladly vote for his confirmation; but he has disqualified himself for the Interstate Commerce Commission, and with the full consciousness of the seriousness of the question before me I shall vote against confirmation.

[Senate executive session, Misc. Ex. Doc. No. 3, 64th Cong., 2d sess.]

[S. Doc. No. 672.]

WINTHROP M. DANIELS.

MEMORANDUM SUBMITTED TO THE SENATE OF THE UNITED STATES ON JANUARY 9, 1917, IN SUPPORT OF THE CONFIRMATION OF THE NOMINATION OF WINTHROP MORE DANIELS TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION BY HON. FRANCIS G. NEWLANDS, UNITED STATES SENATOR FROM NEVADA.

The opposition to the confirmation of Mr. Daniels as Interstate Commerce Commissioner is based upon two distinct grounds: (1) The principles enunciated by him as a member of the New Jersey Public Utility Commission in the Paterson-Passaic Gas case, and the danger of applying these principles to the Federal valuation of railroads; and (2) upon Mr. Daniels's deliverances and influence as Interstate Commerce Commissioner in the Five Per Cent case of 1914 and the Western Rate Advance case of 1915. Mr. Daniels became a member of the Interstate Commerce Commission in April, 1914.

THE PATERSON-PASSAIC GAS CASE.

This was an investigation by the Public Utility Commission of New Jersey, upon its own motion, into the reasonableness and justice of rates charged for gas by the Public Service Gas Co.

The territory covered included the cities of Paterson and Passaic, N. J., and 13 adjacent municipalities, mostly suburban.

THE DECISION ORDERED A REDUCTION IN RATES TO THE CONSUMER.

Before discussing the principles upon which the valuation for rate making purposes in this case was made by the New Jersey commission, we direct attention first of all to the fact that *the outcome of the case was a reduction in the price of gas to the consumers.*

The rate charged by the company had been $1.10 per thousand cubic feet, with a discount of 10 cents for prompt payment. This was reduced by order of the New Jersey commission to a rate per thousand cubic feet of 90 cents flat. The reduction thus required by order in the Paterson-Passaic district was extended, as the New Jersey commission had recommended, to five other large districts served by the Public Gas Co. The resultant annual reduction of charges to consumers of gas in the entire State of New Jersey amounted to over $1,000,000 a year.

THE DECISION FIXED A VALUATION WHICH IN AMOUNT WAS ABOUT ONE-HALF OF THE FACE VALUE OF THE SECURITIES.

Again, before entering upon an analysis of the valuation principles upon which the New Jersey commission proceeded, attention should be directed to the fact that *while the outstanding obligations of the gas company in this district were $9,100,000, par value, consisting of $5,000,000 stock and $4,100,000 bonds, the base, or valuation, on which the New Jersey commission permitted the company to earn was fixed at $4,750,000, or about one-half of the par value of the securities outstanding.*

Whatever of error may be alleged to inhere in the principles followed by the New Jersey commission in this case their application resulted in a reduction in rates to consumers, and in exempting the community from any pretense which the Public Service Gas Co. could thereafter urge that it was entitled to earn on the face value of its securities.

It may be said by way of anticipation that the effects characterized as "more than disastrous" if the principles applied in this gas case were applied to railroads signally failed to materialize in the particular case in question. The prediction that if these principles of valuation of the New Jersey commission were applied to railroads their valuation "would exceed the existing capitalization by more than $600,000,000" was not only not realized in the Paterson-Passaic Gas case, but instead practically one-half of the face value of the securities was by inference pronounced invalid as evidencing any claim for earnings that could be made by the company upon the consumers of gas.

For fear of misapprehension, it should be repeated and reemphasized that the basis on which the company was pronounced entitled to a fair return from rates was fixed wholly without reference to the company's securities and at a figure but slightly in excess of the company's bonds outstanding, or, to be exact, in excess of the par value of the bonds by an amount equal to exactly 13 per cent of the face value of the stock.

The securities outstanding of the Public Service Gas Co. in the Paterson-Passaic district amounted to $9,100,000, composed of $5,000,000 stock and $4,100,000 bonds. Instead of setting a return upon the par value of the securities the New Jersey commission fixed a return based on the value of the property and the business attached of approximately 50 per cent of that sum, to wit, $4,750,000. The basis upon which the 8 per cent return was allowed has been misapprehended. The contention is in the following words:

"What does this 8 per cent per annum upon the value as found by the commissioners mean? It sufficiently appears from the decision that one-half or more of the capitalization of this value was represented by bonds bearing interest at the rate of not more than 5 per cent per annum. If I assume that the other half was represented by general stock, the result is a yearly dividend of 11 per cent, or a dividend of 9 per cent, with 2 per cent for surplus."

This misapprehension seems to be founded on the erroneous assumption that the New Jersey commission allowed 8 per cent on the face value of the securities. The 8 per cent return was allowed, *not upon the value of the securities*, but upon about half of that amount, represented by the valuation of $4,750,000, found by the New Jersey commission to be the value of the property and the business attached. Eight per cent upon this valuation amounts to $380,000. If out of this sum 5 per cent were paid on the bonds, the bondholders would receive $205,000. The permitted total earnings of $380,000 less $205,000 (or 5 per cent on the bonds) would leave $175,000 to pay dividends on $5,000,000 of stock. This would be exactly 3½ per cent, instead of 11 per cent, as erroneously estimated under the misapprehension referred to.

VALUATION PRINCIPLES INVOLVED IN THE GAS CASE.

There are two principles followed by the New Jersey Public Utility Commission in the Paterson-Passaic Gas case which are alluded to as erroneous. These are, first, making an allowance for what are termed "overhead charges," the allowance being added to the estimated value or cost of the physical structures to obtain the aggregate valuation of the tangible property. The second principle alleged to be erroneous is the allowance which the New Jersey Public Utility Commission made for "going concern value" or "going value," or what might be appropriately termed the business or patronage acquired by the company, and which is ordinarily quite distinct from the tangible property owned by a gas company.

It is contended that these are the two essential principles of valuation which are erroneous.

These two matters will be treated in their order.

THE PROPRIETY OF AN ALLOWANCE FOR OVERHEAD CHARGES.

In order to understand the items that are in whole or in part generally included under the head of "Overhead charges," the following list, taken from Whitten, Valuation of Public Service Corporations (p. 210, sec. 240), is cited as illustrative. The items covered in overhead charges embrace—

1. Engineering and superintendence.
2. Contingencies.
3. Contractor's profit.
4. Interest during construction.
5. Legal and general expense, company organization, taxes, and insurance.
6. Promotion.

It should be clearly understood that the allowance for these charges is made to obtain the value of physical structures. They are not to be confused with allowances for intangible values of any kind. Perhaps the simplest illustration of overhead charges arises in connection with the building of a dwelling house. A complete inventory and valuation of material in place, such as walls, timbers, roof, etc., inevitably falls short of the cost of such a building. There are, in addition, the architect's bill, insurance during the building process, interest foregone on such sums as are held in readiness for serial payments to contractors, contingencies, etc. To obtain the entire cost of the structure these costs must be added to the cost of actual material in place.

In making valuations of the plant of public-service corporations similar allowances are regularly made to obtain a complete valuation of the physical property. These allowances are now being regularly allowed by the valuation bureau of the Interstate Commerce Commission, with the approval of the advisory board of that bureau, and not by the requirement or instruction of the Interstate Commerce Commission.

These allowances are regularly made by practically all competent and intelligent engineers. They have received court approval, and particularly in the following cases: Des Moines (Iowa) Water Rate case of 1910, where Judge McPherson granted an injunction based upon the master's findings involving two estimates of the property, in one of which the allowance for the overhead charges was 16 per cent and in the other 28.5 per cent. (Authority, Des Moines Water Co. *v.* City of Des Mones, No. 2468, in equity, United States Circuit Court, Southern District of Iowa; also summarized on pp. 221–222 of Whitten on Valuation.)

Other instances of allowances for "overhead" are the following:

In the appraisal of the Chicago city railways in 1906, which was used as the basis of the franchise settlement ordinances, February 11, 1907, where the allowance for the total of overhead charges was fixed at 17.21 per cent of the value of structures. (Authority, Whitten, Valuation, 213–215.)

In the Cleveland street railway appraisal of 1909 Judge Robert W. Taylor, acting as arbiter, allowed, in addition to the total inventory value, a percentage of 10 per cent to cover overhead charges. (Authority, Whitten, Valuation, p. 219.)

In the Minnesota State railroad appraisal of 1908 the total overhead charges allowed were 17.7 per cent. (Authority, Whitten, Valuation, p. 228.)

In the Oklahoma Telephone Rate case the State supreme court approved an allowance for overhead charges covering engineering and supervision of 10 per cent. (Authority, 118 Pac., 354.)

In the Wisconsin State railroad appraisal of 1903 total overhead charges were allowed of 13.2 per cent. (Authority, Whitten, Valuation, p. 237.)

In valuation made by the Wisconsin Railroad Commission for water, gas, and electric-light plants the general rule has been to allow 12 per cent for overhead expenses. (Authority, 5 Wis. R. R. Comm. Repts., 113, decided Mar. 28, 1910; 8 Wis. R. R. Comm. Repts., 138–157, Nov. 17, 1911.)

In practically all cases public-service commissions, courts, and intelligent and fair-minded engineers have made an allowance for overhead expenses in addition to the value of physical structures. It is therefore submitted that it is erroneous to hold that such an allowance in addition to the inventory of physical structures is a "fatal departure from sound principles."

The allowance of 17.6 per cent for overhead charges by the New Jersey commission is thus unfavorably characterized:

"This was said and the thing was done, notwithstanding the fact that not a word of testimony had been introduced showing that the company had ever made any such expenditures, or that any such capital remained idle during any such period.

"This was said and the thing was done, notwithstanding the perfectly obvious truth that the company, or its predecessors, had been making and selling gas for many years, had been charging exorbitant prices for it, and that whatever expenditures had been made or whatever idle capital to be rewarded the earnings of the company had been ample to cover and had covered all such items."

The statement cited above seems to disclose a misapprehension of the situation. There had been made by the New Jersey commission a complete inventory and appraisal of the physical property, gas houses, holders, mains, etc. Some of these had been constructed many years ago, and there were no complete accounts, and in many cases no books of account at all, of the various concerns that had been merged and consolidated, both legally and physically, into the existing plant of the Public Service Gas Co. It was self-evident that overhead expenses had been incurred when these properties were constructed. In default of actual record of costs a number of competent and expert engineers were called to testify as to the per cent allowance appropriate for overhead charges. On consideration of their testimony the estimate of 17.6 per cent of the value of the existing structures was found by the New Jersey commission as the fair allowance for these costs, and that amount was added to the structural value to obtain the aggregate physical valuation. It should be added that this allowance for overhead charges was practically not seriously contested when an appeal was taken from the order of the New Jersey commission to the courts.

It is therefore submitted with confidence that the allowance for "overhead charges" which Senator CUMMINS contends was erroneously made by the New Jersey commission has in its support not only its prima facie reasonableness and propriety, but also the practically universal approval of engineers, public-service commissions, and courts.

THE ALLOWANCE FOR "GOING VALUE" OR "GOING CONCERN VALUE."

It is contended that the action of the New Jersey commission in making an allowance for "going value" or "going concern value," approximately 30 per cent of the cost of the physical structures, and of adding this allowance to the cost of the physical structures to obtain a base upon which to predicate reasonable earnings from rates charged consumers was and is erroneous.

"Going value" or "going concern value" in the case of a gas company is best described as the value of the business attached, as distinguished from the physical property of the gas company. There is apparently no denial of the fact that a gas plant with consumers connected to the mains is worth more as a revenue producer and a public-service agency than the same plant without the consumers attached. If consumers, when gas mains are first extended to their neighborhood, always promptly and generally had their dwellings piped for gas, had gas cooking and heating appliances introduced into their homes and shops, and voluntarily and at their own expense connected with the street mains, this item of "going concern" in the case of a gas company might possibly be disregarded.

But the testimony in this Paterson-Passaic case showed convincingly that custom or patronage are not and were not thus promptly and without expense acquired by the gas company or the constituent companies which had been merged therein. The securing of business by a gas company involved and involves free installations, free exhibitions, the solicitation of patronage, and various other items of expense for which, as Senator CUMMINS apparently admits, the company is entitled to reimbursement. He apparently contends that these items should normally be paid out of current revenue. It should, however, be observed that at the very time these expenses are incurred the current revenue is presumably less ample than it will thereafter become when the additional patronage and consumption has been secured. Moreover, these expenses are incurred once for all like capital expenses generally, and are not regularly recurrent like coal or labor bills. It has therefore in notable instances been determined, where a public appraisal or valuation has been made, to capitalize the cost of acquiring patronage or custom and to allow for these costs separate and apart from the physical plant under the head of "going value."

This fact of the separate cost of building up the business as distinct from the cost of building the physical structures was treated by the Wisconsin Railroad Commission in a case decided August 3, 1909 (Hill *v.* Antigo Water Co., 3 Wis. R. R. Com. Rpts., 623). That commission says (at p. 706):

"But new plants are seldom paying at the start. Several years are usually required before they obtain a sufficient amount of business or earnings to cover operating expenses, including depreciation and a reasonable rate of interest upon the investment. The amount by which the earnings fail to meet these requirements may thus be regarded as deficits from the operation. These deficits constitute the cost of building up the business of the plant. They are as much a part of the cost of building up the business as loss of interest during the construction of the plant is a part of the cost of its construction. They are taken into account by those who enter upon such undertakings, and if they can not be recovered in some way the plant fails by that much to yield reasonable returns upon the amount that has been expended upon it and its business. Such deficits may be covered either by being regarded as a part of the investment and included in the capital upon which interest is allowed, or they may be carried until they can be written off when the earnings have so grown as to leave a surplus above a reasonable return on the investment that is large enough to permit it. When capitalized they become a permanent charge on the consumers. * * * Whether they should go into the capital account, or whether they should be written off, as indicated, are questions that largely depend on the circumstances in each particular case."

Another Wisconsin case in which clear recognition is made of "going value" is Payne et al. *v.* Wisconsin, August 3, 1909. In the report of that case (vol. 4, Wis. R. R. Com. Rpts., p. 61) it is said:

"* * * If property is devoted to the public use, and reasonable care has been exercised in all the phases of its management, but the owners have not received a fair return during the earlier years of the operation of the plant in which the property is used for the convenience of the public, the deficit thus incurred must be made up out of later earnings, in so far as this is commercially possible and expedient. In other words, every effort honestly put forth, every dollar properly expended, and every obligation legitimately incurred in the establishment of an efficient public-utility business must be taken into consideration in the making of rates for such business. *Collectively the elements just referred to may be designated by the term going value, and in this sense there can be no question regarding the propriety and justice of admitting going value as a consideration in the determination of rates.* Whether this going value should be made a part of the permanent capitalization of the plant, or provided for by means of a sinking or other fund, is a matter to be decided on the facts in each particular case."

Apart from the decisions of the Wisconsin Railroad Commission, valuations for rate making, including a separate appraisal for going value over and above the value of the physical structures, have received the approval of courts in the following instances: The Des Moines Water case, No. 2468 in equity, Circuit Court of the United States, Southern District of Iowa, Central Division, September 16, 1910; the Pioneer Telephone & Telegraph Co. *v.* Westenhaver, by the Supreme Court of Oklahoma (118 Pac., 354), decided January 10, 1911; the Urbana, Ohio, Water Rate case; C. H. Venner Co. *v.* Urbana Waterworks (174 Fed., 348), decided November 6, 1909.

THE INCLUSION OF GOING VALUE IN THIS CASE APPROVED BY THE SUPREME COURT OF NEW JERSEY AND THE COURT OF ERRORS AND APPEALS OF NEW JERSEY.

Whatever may be the difference of opinion with reference to the inclusion of going value in valuation for rate-making purposes, the inclusion of this item by the New Jersey commission in this case received the explicit approval of the courts of that State. The findings of the New Jersey commission with reference to going value was approved by the Supreme Court of New Jersey July 7, 1913. The court took particular pains to approve the inclusion of and the allowance for going value, saying:

"The controversy turns mainly on the allowance for going value and the refusal to allow anything for the value of the franchise. For going value or cost of developing the business, $1,025,000 was allowed. * * * The company insists that there should be allowed about twice as much, including preliminary expenses and cost of development.

"It is necessary, therefore, to determine first whether any allowance at all for going value is proper. We think both on weight of authority and on reason there should be such an allowance. (National Water Works *v.* Kansas City, 62 Fed., 853; 10 C. C. A., 653; 27 L. R. A., 827; Kennebec Water District *v.* Waterville, 97 Me., 185; 54 Atl., 6; 60 L. R. A., 856; Gloucester Water Supply Co. *v.* Gloucester, 179 Mass., 365; 60 N. E., 977; Town of Bristol *v.* Bristol & W. Water Works, 23 R. I., 274; 49 Atl., 974; Norwich Gas & Electric Co. *v.* City of Norwich, 76 Conn., 565; 57 Atl., 746; Omaha *v.* Omaha Water Co., 218 U. S., 180; 30 Sup. Ct., 614; 54 L. Ed., 991.) * * * The legal question is whether these items constitute a going value upon which the company is entitled to a return if the individual rate is to be just and reasonable. To this we answer yes. The argument addressed to us on the other side is that all the so-called going value appears in the valuation of the physical plant at the cost of reproduction; the suggestion is that unless there was going value the physical plant would be mere junk, and that the difference between the valuation of the physical plant at its cost of reproduction and its valuation as junk is the true going value. The argument seems to us specious rather than sound. * * *

"We think that upon the whole they reached a fair valuation. They took 30 per cent of the structural cost. This seems to be practically conceded to be fair; the difference arises from the fact that their estimate of structural cost was lower than the gas company thinks it should have been. No doubt fair-minded men may differ, but as the commissioners seem to have allowed the actual expenses proved and permitted the whole to be capitalized, even when paid out as current expenses from current rates, we think no injustice was done in this respect." (Public Service Gas Co. *v.* Board of Public Utility Commissioners, 87 Atl., 657 sq.)

The decision of the Supreme Court of New Jersey above cited was affirmed on appeal to the court of errors and appeals. (94 Atl., 634, and 95 Atl., 1079.)

It may be remarked in passing that it does not follow that the same measure of allowance, or necessarily any allowance at all, should be made for going value in the case of other utilities, including railroads. A gas company at its introduction must solicit and acquire the patronage of consumers by free installations, by free service, by exhibitions of the use of gas for cooking and heating purposes, whereas a trolley company, for example, would not apparently have to make similar expenses. Each particular case must be judged by the facts placed of record.

In short, the decision of the New Jersey commission in the Paterson-Passaic Gas case reduced the price to consumers, ignored the inflated face value of the securities, appraised the property with business attached at about half the amount claimed by the company, and has obtained specific approval by the highest courts of the State.

It should be stated in addition that the Paterson-Passaic Gas case is now pending before the Supreme Court of the United States on appeal. The gas company contends that the New Jersey commission made a wholly inadequate allowance for certain intangible values such as the company's franchise. The allowance of $1,025,000 by the New Jersey commission was an all-inclusive allowance for all intangible elements of value, and expressly excluded any allowance for franchise value except such actual outlay as might have been made in obtaining the franchises in question. No allowance at all was made for good will; and the measure of the allowance for all intangibles, including "going value," was based upon the evidence of a number of expert witnesses.

THE 5 PER CENT CASE AND THE WESTERN RATE ADVANCE CASE.

The opposition to Mr. Daniels's confirmation four cases decided by the Interstate Commerce Commission are reviewed. These four cases are the Eastern Rate Advance case of 1910, the Western Rate Advance case of 1910, the Five Per Cent case of 1914, and the Western Rate Advance case of 1915. (Ibid., p. 12.)

So far as the first two cases are concerned it should be stated that they were decided before Mr. Daniels became a member of the Interstate Commerce Commission. It is also significant that in his dissenting memorandum attached to the first opinion in the Five Per Cent case Mr. Daniels took occasion to indicate his approval of the denials of rate advances in both of the 1910 cases. He said:

"In 1910 the railroad carriers in official classification territory and the principal railroad carriers in western trunk line, trans-Missouri, and Illinois freight committee territories filed tariffs advancing rates upon some hundreds of commodities. In official classification territory the proposed advances covered all class rates and about one-half of the commodity rates. The commission suspended the tariffs containing the proposed advances and entered upon two inquiries concerning the propriety of the increased rates. As the outcome of each inquiry the proposed rates were not found reasonable and proper.

"Upon the evidence presented in these inquiries such finding and conclusion by the commission was amply warranted. The year 1910 coincided with an unusual volume of traffic moving over the carriers' lines, so that despite the carriers' showing of various increased costs the simultaneous increase in tonnage and gross receipts was more than sufficient to offset the rising costs and to leave net operating income unimpaired."

The first of the four cases reviewed in which Mr. Daniels participated was the Five Per Cent case. On July 29, 1914, the first decision in the Five Per Cent case was made. The majority of the commission found in their report:

"Upon the record, found that the net operating income of the carriers in official classification territory, considered as a whole, is smaller than is demanded in the public interest; but that no showing has been made warranting a general increase in trunk-line rates, in rail-and-lake rates, or in rates on traffic moving in official classification territory." (First headnote to Report, 31 I. C. C., p. 351.)

In the body of the report (31 I. C. C.), on page 384, the following findings are made:

"In view of a tendency toward a diminishing net operating income as shown by the facts described, we are of opinion that the net operating income of the railroads in official classification territory, taken as a whole, is smaller than is demanded in the interest of both the general public and the railroads."

The majority opinion conceded increased rates in central freight association territory—Ohio, Indiana, Illinois, and southern Michigan, Commissioner McChord and Mr. Daniels thought that the increase should extend to official classification territory covering the States east of Ohio to the seaboard north of the Potomac River.

It shoud be observed in passing that the decision was made public before the outbreak of the European war and before the possibility of that event was contemplated. It follows of necessity that Commissioner McChord and Mr. Daniels, who dissented in that case, could not have been in anywise influenced by the results or the apprehended results of the war.

In October of 1915 the commission ordered a supplemental hearing in the 5 per cent case, and as the result adopted the view of Commissioner McChord and Mr. Daniels and extended the increase throughout official classification territory. Two commissioners, namely, Commissioner Clements and Commissioner Harlan, dissented from the second decision, but the remaining five commissioners concurred in it.

Exception is taken to what is characterized as the "startling views" expressed by Mr. Daniels in his dissenting memorandum attached to the first decision in the 5 per cent case, and in confirmation of this is quoted the following from Mr. Daniels's dissenting memorandum:

"Expected earnings constitute in the last analysis the bid which the carriers must make for new capital for needed improvements, extensions, new rolling stock, and similar purposes. It is not necessary to say that on such a showing the investing public will hardly be eager to intrust its funds to transportation enterprises. Where well-secured, long-time bonds bearing 4½ per cent interest command little over par, *and where stock can be sold at par* (these words in italics are inadvertently omitted in the quotation) only on the prospect of a much higher rate of return, it is clear that the carriers must make a better showing of net revenue before they can as a whole enlist large additional supplies of capital."

This quotation is unfavorably commented on, as follows:

"The meaning of this * * * is that no matter how exaggerated the basis of value may be, the rates must be such as will keep the stocks of railway corporations favorites in the market; that is to say, the people must pay for all the financial mistakes, crimes, and mismanagement of a half a century of conscienceless promotion."

The inference above drawn is perhaps completely refuted by the conclusion of Mr. Daniels's dissenting memorandum, where Mr. Daniels says:

"A living wage is as necessary for a railroad as for an individual. A carrier without a sufficient return to cover costs and obtain in addition a margin of profit large enough to attract new capital for extensions and improvements can not permanently render service commensurate with the needs of the public. Eventually it may come about that railroads will be owned and operated by the Government. That is a matter of public policy which it is not the province of this commission to consider. But that such a departure from the present policy of private ownership and corporate operation should be materially

hastened by the reluctance of new capital to invest in these properties would seem to be a grave indictment of our present system of regulation and control."

It is a complete misapprehension of Mr. Daniels's memorandum to suppose that he advocated rates so high as to lift to par securities of carriers which, by reason of overcapitalization or questionable administration, were worth only a fraction of their face value. Mr. Daniels is speaking in general of *future investments*, and implies that if net earnings resulting from existing rates are unpromising there will be difficulty in future of securing the investment of additional capital commensurate with the needs of the shipping public.

In order to explain certain misapprehensions as to the Five Per Cent case it should be stated that the carriers in official classification territory asked what was in most cases a horizontal 5 per cent increase in rates. On some commodities where the rate was less than $1 per ton they asked an increase of 5 cents per ton. This was disallowed.

On certain commodities whose rates were then under separate advisement, such as anthracite coal and certain other commodities on which the carriers had not sustained the propriety of a 5 per cent increase, such as rail-lake-and-rail rates; rates on coal and coke, which had been increased in the not distant past; rates on iron ore; and rates held by unexpired orders of the commission, the increases were denied.

When, in the second report, increases were allowed, the carriers were required for a test period to ascertain by actual count the per cent of rate increase derived, it was ascertained to be slightly less than 3 per cent over what would have been realized if the rates had not been advanced.

Mr. Daniels, in his dissenting memorandum to the original report, said:

"In the conclusions of the majority report I am unable to concur. Except as hereafter indicated, the 5 per cent advance should have been granted in trunk-line territory no less than in Central Freight Association territory." (31 I. C. C., 434 sq.)

After reciting the evidence of record, including the rise in operating ratio since 1900 (pp. 441–445), there is a discussion of the burden of proof under the statute (pp. 448 sq.), where Mr. Daniels held:

"There exists a presumption in favor of interrelations in a rate fabric that have long continued undisturbed (p. 450). * * * With a demonstration of inadequate revenues, and with a presumption in favor of the propriety of the interrelation between rates long in effect, an advance moderate in amount, calculated to produce but a reasonable increment in earnings and affecting all traffic in the same degree, is the plain dictate of law and common sense in the premises" (pp. 450, 451).

Mr. Daniels also pointed out that this presumption had been rebutted in the case of lake-and-rail rates and in the case of coal and ore (p. 451).

Rehearing was had upon the case in October, 1914. The commission thereafter extended the relief asked, by according the horizontal increases, with certain exceptions, to official classification territory generally. Commissioners Harlan and Clements dissented, but the other commissioners approved the action substantially as suggested by commissioners McChord and Daniels in their original dissenting memoranda.

The grounds for the modification of the original report were as stated on page 327 to be the completed returns for the fiscal year ending June 30, 1914, and returns for succeeding months; the war in Europe; and the results of the original order. (32 I. C. C., 327.)

The second report found that—

"These figures serve to emphasize our previous finding of the need of carriers in official classification territory taken as a whole, for increased net revenue." (32 I. C. C., 327.)

The second report, after reciting various forecasts of a financial character likely to result from the war, said:

"With some of these considerations we have, as a commission, nothing to do. Our powers and functions are those, and only those, conferred by Congress." (32 I. C. C., 329.)

At a later place the second report says:

"While we differ as to the relative importance to be attached to the various considerations presented, we agree in the conclusion that, by virtue of the conditions obtaining at present, it is necessary that the carriers' revenues be supplemented by increases throughout official classification territory." (32 I. C. C., 330.)

Mr. Daniels in his original dissenting memorandum held that the carriers had justified increased rates, with certain exceptions, higher than the then existing rates, and that the horizontal increase should extend throughout official classification territory. The majority of the commission in its original report confined the increases to central freight association territory, but in December, 1914, modified its original opinion and order so as to agree substantially with the position taken originally by Commissioners McChord and Daniels in their dessenting opinions on the first decision.

The fourth case is the Western Rate Advance case of 1915, which is criticized as follows:

"It involved the proposed increase upon about 200 commodities in a territory which is substantially but not accurately described as lying between Chicago on the east and a line running north and south through the United States through Denver. There are a great many railroads operating in this region, but, as everybody knows, a very large part of the business is done by a comparatively few systems, the names of which are familiar to every Senator. The opinion was delivered 'By the Commission.' I do not know who prepared it, but inasmuch as it reflects the views which Mr. Daniels expressed in his dissent in the Eastern case of 1913—views which are really the logical sequence of the doctrines held by the Utility Commissioners of New Jersey—it is quite sure that, if he did not write the opinion, he is largely responsible for it, and in any event, whatever else may be true he concurred in it."

Referring to the conclusion of the decision (35 I. C. C., 654–680), it will be discovered that Mr. Daniels, *far from being responsible for the opinion in question, dissented from the opinion*, in which view he was upheld by Commissioner Harlan, who also dissented, the dissent of the latter being printed on pages 680–681 of volume 35, Interstate Commerce Commission Reports.

The entire outcome of the 1915 Western Rate Advance case is singularly mistaken in the above criticism. Instead of according the increases there sought, it will appear by the headnote on page 497 that they were for the most part denied upon the commodities where any considerable amount of revenue was involved. This finding has never been reversed, and it will be learned from an inquiry of those who are acquainted with the situation that the decision was generally regarded as almost a complete defeat for the carriers which proposed the increased rates.

The Daily Traffic World, of Chicago, on August 11, 1915, headlined its account of the decision: "Western rate case decided. Only a few increases allowed. Victory for the shippers and disappointment for the carriers." The Traffic World (weekly edition) of December 18, 1915, after the commission had denied a rehearing of the case, printed an editorial which indicates the above view was that of Hon. Clifford Thorne, then chairman of the Iowa State Railroad Commission. An excerpt from the editorial (p. 1242) says of an interview with Commissioner Thorne as to certain alleged criticisms of the Interstate Commerce Commission contained in the report of the Iowa State Railroad Commission:

"He says in that interview that conditions have materially changed since the comments in the report (i. e., of the Iowa commission) were written, for since that time the Interstate Commerce Commission has refused a lot of proposed freight advances in the West and denied the petition of the railroads for a rehearing. He naively remarks that he feels quite different toward the commission (i. e., the Interstate Commerce Commission) after this decision in the Western Freight case from the way he felt after the decision on the rehearing of the Eastern case."

There were involved in this 1915 Western Rate Advance case three principal items: (1) Grain and grain products; (2) live stock and its products—fresh meat and packing-house products; and (3) coal. As will be found from page 504 of the report, these above-mentioned commodities involved $7,166,000 out of a total expected increase in revenue of $7,604,247. (35 I. C. C., 504.) The minor articles involved were estimated to yield but $438,000 of increased revenue in the aggregate. All of the commissioners, with the exception of Commissioner Harlan, adjudged that the increase on the grain and grain products had not been justified, and in this denial of the proposed increase on grain and grain products Mr. Daniels concurred. As regards live stock and its products, five of the commissioners voted to deny the increases, whereas Commissioners Harlan and Daniels approved the proposed increases. As regards coal, all of the commissioners concurred in the increases, which in no case amounted to more than 10 cents a ton. The aggregate increase of revenue permitted by the majority report amounted to about $1,600,000, or less than one-fifth of what had been asked, and amounting to about one-fourth of 1 per cent of the total freight revenues of these carriers for 1914. See page 662 of the report. (35 I. C. C., 662.)

It is further suggested that the characteristics of the 1915 Western Rate Advance case which it is remarked in opposition to Mr. Daniels's confirmation "stand out with especial prominence" are for the most part based upon a complete misapprehension of the findings of the report.

These characteristics of the report are stated as follows:

"First. It is made quite clear that, in the judgment of the commission, rates for transportation must constantly increase as the country develops, as population and traffic become more dense, and as the volume of commerce expands. * * *

"Second. The opinion seems to proceed upon the hypothesis that competent management, honest administration, favorable location, and considering a railroad as a means of carriage instead of an opportunity on the stock exchange, are no longer factors in the great problem of regulation. * * *

"Third. For the first time it was suggested that if intrastate rates, and apparently whether fixed by the States or the railroads themselves, are higher than interstate rates, this may be accepted as proof that the interstate rates are too low. * * *

"Fourth. There is another thought in the opinion which I have not been able to fully understand. * * * If this is to be understood as establishing the rule that rates are to be approved according to their 'propriety' instead of their 'reasonableness,' we have indeed lost all the landmarks of the law."

No specific reference by page number of the commission's report is given to illustrate the first and second points, and it is confidently submitted that there is no finding in the report in the 1915 Western Rate Advance case which can be cited in substantiation of the first two averments. The majority report, after a very complete analysis of the financial condition of the carriers involved, says at pages 565, 566:

"Up to this point we have discussed evidence of a general character, chiefly financial. As the views of individual commissioners might vary with respect to particular features and different degrees of importance to be attached to the same fact, our comments have been primarily narrative; they have been interpretative only incidentally and within the range of financial facts of record. No attempt has been made on the record nor in our discussion of it to review the entire financial history of these carriers, nor to bring into relief other facts which have an important bearing upon their present financial condition. In other words, this preliminary discussion leaves uninterpreted many consequential facts. However, in our view a wider examination in this respect is not necessary for a proper disposition of the issues involved regarding proposed increased rates. We proceed to the consideration of the particular tariff schedules in which it is proposed to increase the rates."

The third point makes specific reference to page 589 of the report. It will be found on examination that the commission is there speaking not of higher State rates but of lower State rates. Exactly contrary to the statement of the third point, the commission here declined to increase interstate rates because of the prevalence of lower State rates. An examination of the report (35 I. C. C., p. 589) will demonstrate the fact insisted upon that the statement in the third point has completely inverted the finding of the commission.

The fourth point contains a reference to page 589 of the report as to the construction of the word "propriety" in the act to regulate commerce. In this one instance no extended discussion is necessary, as it will be found by an examination of pages 674 and 675 of Mr. Daniels's dissenting opinion in this case, which has been apparently overlooked, the views of the critic are quite in accord with those of Mr. Daniels.

In view of the fact that the Five Per Cent case netted the carriers less than 3 per cent increase in revenue, and that the advances accorded in the 1915 Western Rate Advance case amounted to about $1,600,000, or about one-fourth of 1 per cent of the revenues of the carriers involved; and in view of the fact that in this latter case the commission made no finding as to the financial conditions of the carriers, and predicated no rates thereon, it is submitted that the result of what is designated as the "most notable contest ever carried on in the United States" has been mistaken.

On request of Mr. CUMMINS, and by unanimous consent, the injunction of secrecy was removed from the vote of the Senate on the confirmation of the nomination of Mr. Daniels, and it was ordered to be printed in the RECORD, together with the pairs, as follows:

YEAS—42.

Bankhead	Fletcher	Myers	Sheppard
Brandegee	Gallinger	Newlands	Smith, Ariz.
Broussard	Harding	Oliver	Smith, Md.
Bryan	Hitchcock	Overman	Smith, S. C.
Chilton	Hughes	Page	Smoot
Clark	James	Phelan	Stone
Colt	Johnson, Me.	Pittman	Swanson
Dillingham	Johnson, S. Dak.	Pomerene	Tillman
du Pont	Kern	Ransdell	Williams
Fall	Lodge	Saulsbury	
Fernald	McLean	Shafroth	

NAYS—15.

Borah	Hollis	Lane	Sterling
Chamberlain	Husting	Lea, Tenn.	Watson
Cummins	Jones	Norris	Works
Gronna	Kenyon	Poindexter	

During the roll call the following pairs were announced:

The Senator from Oklahoma [Mr. OWEN] with the Senator from New Mexico [Mr. CATRON];

The Senator from Arizona [Mr. ASHURST] with the Senator from West Virginia [Mr. GOFF];

The Senator from Illinois [Mr. LEWIS] with the Senator from Wisconsin [Mr. LA FOLLETTE];

The Senator from Virginia [Mr. MARTIN] with the Senator from Wyoming [Mr. WARREN];

The Senator from Arkansas [Mr. KIRBY] with the Senator from Massachusetts [Mr. WEEKS];

The Senator from Georgia [Mr. HARDWICK] with the Senator from Kansas [Mr. CURTIS];

The Senator from Kansas [Mr. THOMPSON] with the Senator from Pennsylvania [Mr. PENROSE];

The Senator from New Jersey [Mr. MARTINE] with the Senator from Texas [Mr. CULBERSON];

The Senator from Tennessee [Mr. SHIELDS] with the Senator from Minnesota [Mr. NELSON];

The Senator from Mississippi [Mr. VARDAMAN] with the Senator from Idaho [Mr. BRADY];

The Senator from Montana [Mr. WALSH] with the Senator from Rhode Island [Mr. LIPPITT];

The Senator from New York [Mr. O'GORMAN] with the Senator from New York [Mr. WADSWORTH];

The Senator from Missouri [Mr. REED] with the Senator from Michigan [Mr. SMITH];

The Senator from North Carolina [Mr. SIMMONS] with the Senator from Minnesota [Mr. CLAPP]; and

The Senator from Colorado [Mr. THOMAS] with the Senator from North Dakota [Mr. MCCUMBER].

Mr. SMITH of Georgia was, on his own request, excused from voting.

Mr. CLAPP announced that if at liberty to vote he would vote "nay."

Mr. MARTINE of New Jersey stated that if not paired he would vote "nay."

Mr. NORRIS announced that Mr. LA FOLLETTE was detained from the Senate on account of illness in his family and that if present he would vote "nay."

Mr. SMITH of Michigan announced that he would vote "nay" if permitted to vote.

Mr. HUSTING in announcing the pair of Mr. LA FOLLETTE with Mr. LEWIS stated that Mr. LEWIS if present would vote "yea" and Mr. LA FOLLETTE "nay."

Mr. WALSH in announcing his pair stated that if he were at liberty to vote he would vote "nay."

Mr. SMITH of Arizona stated that Mr. SHIELDS was detained from the Senate on account of Illness.

ADJOURNMENT.

Mr. NEWLANDS. I move that the Senate adjourn.

The motion was agreed to, and (at 5 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 11, 1917, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate January 10, 1917.

CALIFORNIA DÉBRIS COMMISSION.

Col. Edward Burr, Corps of Engineers, United States Army, for appointment as a member of the California Débris Commission provided for by the act of Congress approved March 1, 1893, entitled "An act to create the California Débris Commission and regulate hydraulic mining in the State of California," vice Col. Thomas H. Rees, Corps of Engineers, United States Army.

SECRETARY OF THE TERRITORY OF HAWAII.

Curtis Piehu Iaukea, of Hawaii, to be secretary of the Territory of Hawaii, vice Wade Warren Thayer, resigned.

PUBLIC HEALTH SERVICE.

Dr. Robert Watson Hart to be assistant surgeon in the Public Health Service, to take effect from date of oath, to fill an original vacancy.

APPOINTMENT IN THE ARMY.

INSPECTOR GENERAL'S DEPARTMENT.

Col. John L. Chamberlain, Inspector General, to be Inspector General, with the rank of brigadier general, for the period of four years beginning February 21, 1917, vice Brig. Gen. Ernest A. Garlington, to be retired from active service by operation of law February 20, 1917.

APPOINTMENTS IN THE NAVY.

The following-named citizens to be assistant surgeons in the Medical Reserve Corps of the Navy, from the 29th day of December, 1916:

Julius C. Sosnowski, a citizen of South Carolina.
Ashton E. Neely, a citizen of Pennsylvania.
Rolland R. Gasser, a citizen of Idaho.
Ross T. McIntire, a citizen of Oregon.
William H. Fickel, a citizen of Wyoming.
Philip J. Murphy, a citizen of Illinois.
Benjamin V. McClanahan, a citizen of Illinois.
Erik G. Hakansson, a citizen of Illinois.
Karl L. Vehe, a citizen of Illinois.
Leon W. McGrath, a citizen of South Carolina.
William G. Bodie, a citizen of South Carolina.
Howard E. Gardner, a citizen of Massachusetts.
John R. White, a citizen of Massachusetts.

The following-named citizens to be second lieutenants in the Marine Corps, for a probationary period of two years, from the 18th day of November, 1916:

Benjamin T. Cripps, a citizen of Georgia.
Louis W. Whaley, a citizen of South Carolina.
John M. Arthur, a citizen of South Carolina.
James F. Jeffords, a citizen of South Carolina.
Jacob M. Pearce, jr., a citizen of Maryland.
Gordon Watt, a citizen of Louisiana.
Thomas P. Cheatham, a citizen of South Carolina.
Thomas E. Bourke, a citizen of Maryland.
William C. James, a citizen of South Carolina.

Daniel E. Campbell, a citizen of Maryland, to be a second lieutenant in the Marine Corps, for a probationary period of two years, from the 9th day of December, 1916.

ALABAMA.

James R. Horton to be postmaster at Altoona, Ala. Office became presidential October 1, 1916.

Annie M. Stevenson to be postmaster at Notasulga, Ala. Office became presidential October 1, 1916.

ARIZONA.

Webster H. Knight to be postmaster at Humboldt, Ariz. Office became presidential October 1, 1916.

Carmen Robles to be postmaster at Sonora, Ariz. Office became presidential October 1, 1916.

ARKANSAS.

William T. Beaver to be postmaster at Cotter, Ark., in place of P. N. Buchanan, resigned.

Albert S. Snowden to be postmaster at Paragould, Ark., in place of T. E. Haley, resigned.

CALIFORNIA.

George D. Dool to be postmaster at Calexico, Cal., in place of C. C. Cockley. Incumbent's commission expired June 5, 1916.

William Fox to be postmaster at Dorris, Cal. Office became presidential October 1, 1916.

CONNECTICUT.

Charles F. Farren to be postmaster at Woodmont, Conn. Office became presidential October 1, 1916.

William M. Logan to be postmaster at West Cheshire, Conn. Office became presidential October 1, 1916.

Rollin S. Paine to be postmaster at Stony Creek, Conn. Office became presidential October 1, 1916.

DELAWARE.

W. S. Alexander to be postmaster at Elsmere, Del., in place of J. T. Ratledge, resigned.

FLORIDA.

Jesse S. Collins to be postmaster at Webster, Fla. Office became presidential October 1, 1916.

Emma S. Fletcher to be postmaster at Havana, Fla. Office became presidential January 1, 1917.

Homer E. Hooks to be postmaster at Clermont, Fla. Office became presidential October 1, 1916.

Joseph M. Jones to be postmaster at Vero, Fla. Office became presidential October 1, 1916.

GEORGIA.

Nicholas L. Tankersley to be postmaster at Ellijay, Ga. Office became presidential October 1, 1914.

ILLINOIS.

Frank H. Conroy to be postmaster at Easton, Ill. Office became presidential October 1, 1916.

Walter Roy Donohoo to be postmaster at Pearl, Ill. Office became presidential October 1, 1916.

Winfield B. Jordan to be postmaster at Pana, Ill., in place of W. H. Alexander. Incumbent's commission expired August 22, 1916.

Claudius U. Stone to be postmaster at Peoria, Ill., in place of L. F. Meek, deceased.

INDIANA.

Lawrence H. Barkley to be postmaster at Moores Hill, Ind., in place of R. J. Barkley, resigned.

IOWA.

Amos K. Wilkins to be postmaster at Ute, Iowa. Office became presidential October 1, 1916.

KANSAS.

Anna Belle Lock to be postmaster at Norwich, Kans. Office became presidential October 1, 1916.

Roberta H. McBlain to be postmaster at Fort Riley, Kans., in place of Roberta H. McBlain. Incumbent's commission expired March 8, 1916.

KENTUCKY.

G. H. Bunger to be postmaster at West Point, Ky. Office became presidential October 1, 1916.

LOUISIANA.

Edward S. Hart to be postmaster at Elton, La. Office became presidential October 1, 1916.

Frank J. Maricelli to be postmaster at Campti, La. Office became presidential October 1, 1916.

Sallie D. Pitts to be postmaster at Oberlin, La. Office became presidential October 1, 1916.

MARYLAND.

John T. Culver to be postmaster at Forest Glen, Md., in place of G. M. Wolfe, resigned.

William W. Hopkins to be postmaster at Bel Air, Md., in place of C. A. Hollingsworth, deceased.

J. Frank Lednum to be postmaster at Preston, Md., in place of G. E. Williamson, deceased.

MICHIGAN.

Thomas P. Griffin to be postmaster at Carrollton, Mich. Office became presidential October 1, 1916.

Simon W. McDonald to be postmaster at Benzonia, Mich. Office became presidential October 1, 1916.

Frank D. Verran to be postmaster at Republic, Mich., in place of W. J. Irwin, resigned.

MINNESOTA.

J. A. Bloom to be postmaster at Chisago City, Minn. Office became presidential October 1, 1916.

Emily M. Drexler to be postmaster at Brandon, Minn. Office became presidential October 1, 1916.

Tillmon W. Grillson to be postmaster at Bellingham, Minn. Office became presidential October 1, 1916.

Kate Hostetler to be postmaster at Wykoff, Minn. Office became presidential October 1, 1916.

Margaret McC. Maher to be postmaster at Brewster, Minn., in place of Margaret I. McCall; name changed by marriage.

Thomas A. Torgerson to be postmaster at Greenbush, Minn. Office became presidential October 1, 1916.

Otto W. Peterson to be postmaster at Audubon, Minn. Office became presidential October 1, 1916.

Arthur J. Yackel to be postmaster at Comfrey, Minn. Office became presidential October 1, 1916.

MISSOURI.

Virgil L. Looney to be postmaster at Walnut Grove, Mo. Office became presidential October 1, 1916.

William F. Stevenson to be postmaster at South West City, Mo. Office became presidential October 1, 1916.

MONTANA.

Mary R. Burke to be postmaster at Scobey (late East Scobey), Mont. Office became presidential July 1, 1915.

NEBRASKA.

J. T. McIntosh to be postmaster at Sidney, Nebr., in place of L. G. Lowe, resigned.

John F. Mahoney to be postmaster at Palmyra, Nebr. Office became presidential October 1, 1916.

NEVADA.

Jeanann M. Fay to be postmaster at East Ely, Nev., in place of Lee M. Boyce, removed.

Mabel C. Heidenreich to be postmaster at Hazen, Nev. Office became presidential October 1, 1916.

NEW JERSEY.

John Matthews to be postmaster at Hudson Heights, N. J., in place of Richard W. Sloat. Incumbent's commission expired January 18, 1916.

Lorenzo B. Shivers to be postmaster at Anglesea, N. J. Office became presidential October 1, 1916.

NEW YORK.

Dennis Dillon to be postmaster at Raquette Lake, N. Y. Office became presidential October 1, 1916.

Ross N. Hudson to be postmaster at Sanborn, N. Y. Office became presidential October 1, 1916.

Clarence A. Lockwood to be postmaster at Schroon Lake, N. Y. Office became presidential October 1, 1916.

Herbert O'Hara to be postmaster at Haines Falls, N. Y. Office became presidential October 1, 1916.

Frank B. Peck to be postmaster at Big Moose, N. Y. Office became presidential October 1, 1916.

NORTH CAROLINA.

James M. Hall to be postmaster at Roseboro, N. C. Office became presidential October 1, 1916.

John A. MacRae to be postmaster at Badin, N. C. Office became presidential January 1, 1917.

NORTH CAROLINA.

Walter E. Barringer to be postmaster at Streeter, N. Dak. Office became presidential October 1, 1916.

John A. Knapp to be postmaster at Binford, N. Dak. Office became presidential October 1, 1916.

OHIO.

Riley E. Clark to be postmaster at Warsaw, Ohio. Office became presidential October 1, 1916.

Harry D. Collins to be postmaster at New Paris, Ohio, in place of C. H. Marshall, deceased.

Ernest C. Heaps to be postmaster at Worthington, Ohio. Office became presidential April 1, 1913.

Rollah E. Hite to be postmaster at Pleasantville, Ohio. Office became presidential October 1, 1916.

Charles E. Plummer to be postmaster at Seaman, Ohio. Office became presidential October 1, 1916.

Henry W. Reeder to be postmaster at Albany, Ohio. Office became presidential October 1, 1916.

OKLAHOMA.

Jesse W. Haydon to be postmaster at Calumet, Okla. Office became presidential January 1, 1917.

John M. Lloyd to be postmaster at Bennington, Okla., in place of James T. Ryan. Incumbent's commission expired May 1, 1916.

J. E. Strickland to be postmaster at Allen, Okla. Office became presidential January 1, 1917.

PENNSYLVANIA.

Ella T. Cronin to be postmaster at Centerville, Pa. Office became presidential October 1, 1916.

J. R. Henry to be postmaster at Dawson, Pa., in place of W. Fairchild, sr., deceased.

Charles V. Johnston to be postmaster at Woolrich, Pa. Office became presidential October 1, 1916.

RHODE ISLAND.

Peter J. Heffern to be postmaster at Pawtucket, R. I., in place of Joseph A. Hughes, resigned.

SOUTH CAROLINA.

R. A. Deason to be postmaster at Barnwell, S. C., in place of C. E. Falkenstein, resigned.

SOUTH DAKOTA.

Rowland F. Cadwell to be postmaster at Bruce, S. Dak. Office became presidential October 1, 1916.

John Michels to be postmaster at Mitchell, S. Dak., in place of Thomas J. Ball, deceased.

John H. Parrott to be postmaster at Pierpont, S. Dak. Office became presidential October 1, 1916.

James D. Snow to be postmaster at Midland, S. Dak. Office became presidential October 1, 1916.

TENNESSEE.

James W. Emison to be postmaster at Alamo, Tenn. Office became presidential October 1, 1916.

TEXAS.

H. C. Parker to be postmaster at Tenaha, Tex., in place of Giles Bowers, resigned.

Gustav R. Voigt to be postmaster at New Ulm, Tex. Office became presidential October 1, 1916.

UTAH.

Ida H. Merrill to be postmaster at Smithfield, Utah. Office became presidential October 1, 1916.

VIRGINIA.

William B. Dew to be postmaster at Sweet Briar, Va. Office became presidential October 1, 1916.

WEST VIRGINIA.

Scott Justice to be postmaster at Logan, W. Va., in place of James M. Moore, deceased.

Henry M. Walker to be postmaster at Madison, W. Va. Office became presidential January 1, 1917.

WISCONSIN.

Peter Cosgrove to be postmaster at Centuria, Wis. Office became presidential October 1, 1916.

Emma M. Du Frenne to be postmaster at Middleton, Wis. Office became presidential October 1, 1916.

George H. Hedquist to be postmaster at Goodman, Wis. Office became presidential October 1, 1916.

Hazel I. Hicks to be postmaster at Linden, Wis. Office became presidential October 1, 1916.

Arthur M. Howe to be postmaster at Elk Mound, Wis. Office became presidential October 1, 1916.

John Lindow to be postmaster at Manawa, Wis., in place of Herman Lindow, resigned.

William J. Neu to be postmaster at Three Lakes, Wis. Office became presidential October 1, 1916.

CONFIRMATION.

Executive nomination confirmed by the Senate January 10, 1917.

INTERSTATE COMMERCE COMMISSION.

Winthrop More Daniels to be a member of the Interstate Commerce Commission.

WITHDRAWAL.

Executive nomination withdrawn January 10, 1917.

First Lieut. William A. Copthorne, Coast Artillery Corps, detached officers' list, for appointment, by transfer, to be first lieutenant of Field Artillery.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 10, 1917.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou, who art infinite in all Thine attributes, from whom all things proceed, help us to appreciate the dignity Thou hast conferred upon us as rational beings, that we may conform our ways to Thy ways, our will to Thy will, as revealed to the world amid the thunders of Sinai, emphasized in the Sermon on the Mount, by the parables which fell from the Master's lips, and in the example of His life; for Thine is the kingdom and the power and the glory. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Waldorf, its enrolling clerk, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 1082. An act to prevent the manufacture and sale of alcoholic liquors in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

The message also announced that the President had approved and signed bills of the following titles:

On December 27, 1916:

S. 7095. An act extending the time for completion of the bridge across the Delaware River, authorized by an act entitled "An act to authorize the Pennsylvania Railroad Co. and the Pennsylvania & Newark Railroad Co., or their successors, to construct, maintain, and operate a bridge across the Delaware River," approved the 24th day of August, 1912.

On December 30, 1916:

S. 6116. An act providing for the taxation of the lands of the Winnebago Indians and the Omaha Indians in the State of Nebraska.

SETTLEMENT OF INDUSTRIAL DISPUTES.

Mr. BORLAND rose.

The SPEAKER. For what purpose does the gentleman from Missouri rise?

Mr. BORLAND. Mr. Speaker, I rise to ask unanimous consent to print as a public document a work that has just been compiled by the Board of Mediation and Conciliation on railway strikes and lockouts. It comprises all of the legislation of this country and all of the legislation of all of the Governments of the world relating to the settlement of industrial disputes and as to the control of public-utility corporations.

The SPEAKER. The gentleman from Missouri asks to have printed as a public document a volume compiled by the Board of Mediation and Conciliation containing the laws upon this subject of every country under heaven. Is there objection?

Mr. BARNHART. Mr. Speaker, reserving the right to object, will the gentleman from Missouri agree to withdraw his request and introduce a resolution and let it go to the committee in the regular way? I do not like to object, but I may have to.

Mr. BORLAND. I think that is the proper course to take; that it ought to go to the Committee on Printing. I simply want to say at this time that this is a book that in the immediate future is going to be extremely valuable to Members of Congress. It is the only place where the information can be found.

EXTENSION OF REMARKS.

Mr. HUDDLESTON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of compulsory military service.

The SPEAKER. The gentleman from Alabama asks unanimous consent to extend his remarks in the RECORD on the subject of compulsory military service. Is there objection?

There was no objection.

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the Federal game law and regulations.

The SPEAKER. The gentleman from Kansas asks unanimous consent to extend his remarks in the RECORD on the subject of the Federal game law and regulations. Is there objection?

Mr. MANN. Does the gentleman mean the migratory-bird law?

Mr. DOOLITTLE. Yes.

Mr. MANN. That is not the Federal game law.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

ALEXANDER F. M'COLLAM.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that I may have two days in which I may file a supplementary report on the bill (H. R. 17781) in behalf of Alexander F. McCollam. I filed the report (No. 1234, pt. 2), but there was some information left out of the report which came from the department and which did not get in, from some oversight, and I ask that I may have time to file a supplementary report, in order that it may be included.

The SPEAKER. The gentleman from California asks unanimous consent to have two days in which to file a supplementary report in the case of Alexander F. McCollam. Is there objection?

There was no objection.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday. The unfinished business is House bill 15914. The House automatically goes into Committee of the Whole House on the state of the Union, with the gentleman from California [Mr. RAKER] in the chair.

THE VIRUS, SERUM, AND TOXIN ACT.

Thereupon the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 15914) to authorize the Secretary of Agriculture to license establishments for and to regulate the preparation of viruses, serums, toxins, and analogous products for use in the

treatment of domestic animals, and for other purposes, with Mr. RAKER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 15914, which the Clerk will report.

The Clerk read the title of the bill, as follows:

A bill (H. R. 15914) to authorize the Secretary of Agriculture to license establishments for and to regulate the preparation of viruses, serums, toxins, and analogous products for use in the treatment of domestic animals, and for other purposes.

Mr. RUBEY. Mr. Chairman, this bill, H. R. 15914, is a bill which revises the act of 1913 relating to the preparation of viruses, serums, toxins, and analogous products used in the treatment of domestic animals. The act of 1913 was brought about by the use of serums in the treatment of hog cholera, and it became evident that in order to secure potent and pure serums all of the establishments that had to do with the manufacturing of this serum should be under the control of the Government of the United States. When the appropriation bill was up in 1913 we put into it the provisions which have since been known as the serum and virus act.

At that time there were possibly less than a dozen establishments in the United States that were manufacturing serum for the treatment of hog cholera. Since then the number has increased to between 80 and 90. We have now between 80 and 90 establishments in the United States which are manufacturing this serum and which are licensed under the provisions of the act of 1913.

In 1914, at the time of the breaking out of the foot-and-mouth disease, there was at least one place in the United States where it was thought beyond any doubt that foot-and-mouth disease occurred because of the fact that the hog-cholera serum contained in it the germs of the foot-and-mouth disease. The Department of Agriculture began at once investigations seeking to avoid the recurrence of such an evil, and I am glad to say that the Department of Agriculture has found a method of treatment under which serum can be made absolutely pure and all of the germs of any disease can be killed. That treatment is simply by a heating method, heating the serum up to a certain point, when all germs of any disease which it may contain will be destroyed, and that, too, without affecting in any way the potency of the serum.

This called to the attention of the Department of Agriculture the necessity of having a more rigid supervision of the manufacturing of serum, and this bill is brought in here to accomplish that purpose. I do not believe that there is any serious objection to the bill. The gentleman from Iowa [Mr. STEELE] introduced this measure, and he has taken great interest in it.

I now yield to him such time as he may desire to discuss it, and reserve the balance of my time after the completion of his statement.

Mr. STEELE of Iowa. Mr. Speaker, the virus-serum-toxin act as embodied in House bill 15914 is intended primarily to enable the Secretary of Agriculture to control the manufacture of serums which are sold for the prevention and cure of hog cholera. The United States Department of Agriculture and other scientific institutions have spent vast sums of money in research to discover the germ that has caused the death of millions of hogs annually for more than 30 years. This disease has resulted in loss and financial ruin to many of the hog producers of this country and indirectly has served to increase the cost of living to the many millions of consumers the world over through the resulting reduction in the pork supply.

A few years ago Dr. Dorset, a scientist in the employ and now the Chief of the Biochemic Division of the Bureau of Animal Industry, Department of Agriculture, discovered a serum that, when injected in a small dose, would immunize the hog against this fatal disease. After thorough scientific investigation and following successful field experiments the United States Department of Agriculture gave the formula to the public. Many competent and trustworthy veterinarians in the department, seeing the many possibilities of this discovery, resigned their positions in the department and proceeded to build establishments for the manufacture of this serum, which they sold at a price which was very remunerative to them. The hog producers of the country, believing that the Department of Agriculture would not recommend this serum if it was not trustworthy, made a great demand upon the few commercial establishments engaged in the business, and those establishments made enormous profits.

Upon this showing many unscrupulous men who knew little of the methods necessary to make pure and potent serum went into the business, and as a result of the action of these men much harm was done, and in many cases hog cholera was produced instead of being prevented. The untrustworthy and unreliable serum which was thus placed on the market created a distrust of the serum among the hog producers of the country, and even caused some of them to condemn the Department of Agriculture for putting out a fake remedy, which not only caused the farmers to lose the money spent for the serum but also the hogs which the serum was supposed to save.

The Department of Agriculture seeing this condition of affairs, and knowing that their serum would immunize hogs if properly manufactured and applied, requested the Congress to pass a law regulating the manufacture and sale of viruses, serums, toxins, and analogous products used in the treatment of domestic animals in order that the Secretary of Agriculture might be empowered to stop these frauds upon the farmer, and thus aid him in making a successful fight against hog cholera. Such a bill was passed by Congress in 1913, but since that time the practical application of the law has shown that it is weak in certain particulars, where the Secretary of Agriculture should have absolute control. Probably the greatest fault in the present law is that the Secretary of Agriculture is empowered to issue licenses and thereby give prestige and standing to a manufacturing firm without actually being in a position at all times to know that the firm is conforming to the regulations and the law. As I have said, it is of first importance to be sure that the serum is potent. This can be determined only by testing it on pigs. The bill which we are now presenting provides authority for the Secretary to control this test completely from the time of its beginning until it has been fully completed.

Section 4 of bill H. R. 15914, to authorize the Secretary of Agriculture to license establishments for, and to regulate the preparation of viruses, serums, toxins, and analogous products for use in the treatment of domestic animals, and for other purposes, reads as follows, to wit:

SEC. 4. That no license shall be issued under the authority of this act to any establishment where viruses, serums, toxins, or analogous products are prepared for sale, barter, exchange, or shipment as aforesaid, except upon condition that the licensee will conduct the establishment and will permit the inspection of such establishments and of such products and their preparation and the examination and testing of the same, and will furnish all necessary animals, materials, and facilities for making such inspections, examinations, and tests in compliance with the regulations prescribed by the Secretary of Agriculture.

The points which I wish to make clear are that the Congress has authorized the Secretary of Agriculture to issue licenses to plants for the manufacture of serum, but sufficient authority has not been given to the Secretary to enable him at all times to be certain that the products of inspected plants are potent and pure as the farmer expects them to be. There are still opportunities for unscrupulous men to evade the law. The present bill conforms entirely with the ideas which were in mind when the first bill was passed. It is simply a case of finding that the first bill did not serve to accomplish what was intended, and the bill which we are now offering merely corrects the defects in the original.

It is not necessary for me to show the necessity for a bill of this kind. The production of hogs is one of the greatest and most important industries of the American farmer, and the disease hog cholera has for years past caused greater money losses than any other single disease of live stock. It is said that these losses actually amount to from $25,000,000 to $75,000,000 a year, depending upon the prevalence of the disease. That progress is being made in the control of these losses is shown by the fact that on the 1st of January, 1916, according to the statistics of the Department of Agriculture, there were in the United States approximately 3,500,000 more hogs than ever before in the history of the country. It is also a fact that during the past several years hog cholera has been decreasing steadily, and there seems no doubt that much of this reduction in losses is due to the application of serum.

The Committee on Agriculture believes that the bill here presented will serve to further safeguard the production of this anti hog-cholera serum, and thus tend to a still greater reduction in the tremendous annual losses from cholera. [Applause.]

Mr. KING. Mr. Chairman, will the gentleman yield?

Mr. STEELE of Iowa. Yes.

Mr. KING. Has the gentleman provided in this bill any protection against anybody connected with the Bureau of Animal Industry or with the Government owning stock in serum factories?

Mr. STEELE of Iowa. I do not think that question came up before the committee.

Mr. KING. Does the gentleman remember that in the discussion of the agricultural appropriation bill at the last session, when an amendment of that kind was offered, a point of order was raised against it and it was suggested that it be placed in this bill, which it was proposed to bring to the attention of the House sooner or later? Does the gentleman recall that at that time he favored an amendment of that character?

Mr. STEELE of Iowa. I do not remember as to that.

Mr. KING. However, there is no such provision in this bill at the present time, is there?

Mr. RUBEY. There is no provision in this bill that prohibits absolutely anyone connected with the department from owning stock in a factory, but I am satisfied that the Secretary of Agriculture, in the appointment of these gentlemen who inspect under this law, will not appoint anyone who is connected with any factory.

Mr. KING. I do not believe he will either, knowingly; but would the gentleman object to such an amendment?

Mr. RUBEY. I will read section 13:

That any person, firm, or corporation, or any agent or employee thereof, who shall pay or offer, directly or indirectly, to any officer or employee of the Department of Agriculture, or of the United States, authorized to perform any of the duties prescribed by this act, or by the regulations made hereunder, any money or thing of value, with intent to influence such officer or employee in the discharge of any duty herein provided for, or which may be provided for by the regulations prescribed hereunder, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not more than $5,000.

Now, if anyone in the employ of the Department of Agriculture is a stockholder in one of these concerns, he is in effect violating that provision of this bill, because he is receiving money or things of value from the concern that manufactures that serum. I think that will cover it.

Mr. KING. Does the gentleman think that that clause is sufficiently broad to prevent an employee of the Government owning stock in a serum factory?

Mr. RUBEY. There is no objection to the gentleman's proposition. If section 13 will not prevent it, we are willing to accept something that will prevent it absolutely.

Mr. STAFFORD. Will the gentleman who has charge of the bill, or some other Member, explain the need of these various provisions which differ from the current law?

Mr. RUBEY. Would it not be better to take up these different matters paragraph by paragraph as they are reached under the five-minute rule?

Mr. STAFFORD. There should be an explanation at sometime or other. I notice in reading the bill that there are some very summary powers vested in the Secretary of Agriculture for the enforcement of this measure. Further, there is some machinery established which has not been created for the enforcement of any other measure. For instance, in section 6 there is a provision which imposes a burden, as I consider it, upon all interstate carriers to have a certificate presented with each shipment, certifying that the shipment conforms to the requirements of the Secretary of Agriculture, before the shipment can be made. While I am in sympathy with the objects and purposes of this bill, I want to have some explanation made by some one as to the necessity of creating that very burdensome machinery and imposing it upon the carriers of the country, now and in the future, when there is at the present time an embargo upon shipments of various commodities because the railroads are not now able to transport the heavy traffic. By providing this mechanism you are only adding to the burdens of the carriers. I wish to be informed by the chairman or some member of the committee as to whether it is necessary to have that character of burdensome regulation in order to get the result aimed at by the supporters of this measure?

Mr. RUBEY. I will say to the gentleman that there is no trouble about that. These forms are all prepared by the Department of Agriculture. They are submitted to the manufacturers. It is only a matter of a few minutes to comply with these regulations, and I will say to the gentleman that as we take up this bill under the five-minute rule we can consider each of these paragraphs.

Mr. STAFFORD. My inquiry was not directed at the burden on the manufacturers, but it was directed to the burden which you impose upon the railroad carriers.

Mr. RUBEY. I understand that.

Mr. STAFFORD. Here is a shipment of some of this virus or serum in interstate commerce. Before that can be sent in the ordinary channels of transportation it must be accompanied by a certificate that the conditions imposed by the Government have been complied with.

Mr. RUBEY. There is no burden about that. The shipper, when he brings his shipments, brings his certificate also.

Mr. STAFFORD. But if the carrier receives the shipment without the certificate, it is liable to prosecution for a misdemeanor.

Mr. RUBEY. If the carrier gets the certificate, then it is relieved of any liability.

Mr. MOSS. Suppose a farmer slaughters animals on his own farm and proposes to send the meat into interstate commerce, That meat can not be carried in interstate commerce, if slaughtered on the farmer's own farm, unless a certificate is provided.

Mr. STAFFORD. Ah, the gentleman is a great authority on everything pertaining to agriculture, but he fails to differentiate that in the case instanced by him there has been no examination, and no attempt at supervision of the slaughtering of cattle by the farmer, but in this case, of the manufacture of serum, the department exercises supervisory authority over all these plants in the first instance, and imposes a penalty in case they do not conform to the requirements of the department. It takes away the permit to continue in the business, and the shipment then is made a penal offense. You have added a heavier burden upon an outside party—to wit, the carrier—which is not necessary as I consider it, and which only further obstructs the channels of traffic.

Mr. MOSS. The gentleman is complaining about the burden laid on the carrier. The burden is the same as it is on the shipper, and both are designed to protect the consumer of the product.

Mr. STAFFORD. I am pointing out a fact which the gentleman does not appreciate, that under this law by other machinery you seek to regulate the manufacture of the product and make it a penal offense in case they do not conform to the law. Now, you are adding an additional burden, an unnecessary burden, on the carrier.

Mr. MOSS. It is precisely the same burden that is put on the carrier under the pure-food law.

Mr. RUBEY. Will the gentleman from Wisconsin state the burden that he is talking about and stay with that one proposition?

Mr. STAFFORD. Yes; as I read this bill I can not see any necessity for requiring a certificate to accompany the shipment.

Mr. RUBEY. What burden is that on the railroad?

Mr. STAFFORD. The carrier has to ascertain under the requirements here from a certificate that everything has been conformed to, and if the carrier fails to do that he is liable as a penal offense.

Mr. RUBEY. The gentleman is absolutely mistaken. If I make a shipment of serum, when I take it to the railroad I bring a certificate and deposit it with the railroad, and that is all that is required by this bill.

Mr. STAFFORD. Why do you require that a certificate shall accompany the shipment for the carrier to ascertain whether it has met with the requirements of the law?

Mr. RUBEY. He does not have to do that. The certificate is all that is required by the law.

Mr. STAFFORD. Is there any other instance of any shipment in interstate commerce, where the National Government takes supervisory authority over the plant, where it requires that a shipment shall be accompanied by a certificate?

Mr. RUBEY. Mr. Chairman, I reserve the balance of my time.

Mr. STAFFORD. I regret the gentleman does not see fit to answer the question.

Mr. ANDERSON. Mr. Chairman, I think everyone who has given consideration to the existing legislation relative to the sale and transportation of serum, virus, and analogous products for the treatment of domestic animals will agree that the existing provisions of the law are inadequate both for the protection of those whom the law is designed to protect, and from the standpoint of those who are charged with the administration of the law.

This bill does throw around the manufacture, sale, and transportation of this class of articles certain safeguards which are not in the present law, and to that extent I am in favor of its provisions. But, on the other hand, it contains what seems to me to be certain defects and certain injustices which ought to be remedied before the bill finally becomes a law.

The bill provides that before any person or corporation can manufacture or offer for transportation in interstate commerce any serum, virus, toxin, or other analogous products for the treatment of domestic animals the person or corporation must obtain a license to manufacture from the Secretary of Agriculture. As a condition of receiving the license he must consent to the inspection of his factory by the agents of the Secretary of Agriculture. He must permit the supervision of the process of manufacture in the establishment; he must permit a test of the product to determine its potency and its freedom from contamination by the agents of the Department of Agriculture, and all this must be done before he is permitted to remove the article from his establishment and put it into commerce between the States. In addition, under regulations prescribed by the Secretary of Agriculture, he must place on the carton or container of the article the date of its manufacture, the name of the product, and the label indicating its potency, dosage, and so forth.

Now, what I am getting at is this: That under this bill the Department of Agriculture supervises the manufacture of the product and passes in the last analysis upon the potency and freedom from contamination of the article so manufactured. Section 2 in this bill makes it unlawful—

for any person, firm, or corporation to prepare, sell, barter, or exchange in the District of Columbia or in the Territories, or in any place under the exclusive jurisdiction of the United States, or to ship or deliver for shipment from one State or Territory or the District of Columbia to or through any other State or Territory or the District of Columbia, or to or through any foreign country, any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals.

In other words, although the Department of Agriculture has inspected the factory, supervised the process of manufacture, tested the product, passed upon its potency, and in passing upon it declared it to be potent and free from contamination, yet if any person sells that product and the product proves to be harmful or worthless, notwithstanding the inspection and test, he is guilty of an offense under this act.

My position is that if the Government undertakes to license the establishment, supervises the process of manufacture, tests the product for potency and freedom from contamination, and passes the product as potent and uncontaminated, it ought to be lawful for any person to sell the article or transport it anywhere. That is my proposition in brief. I shall later offer some amendments designed to carry out my ideas.

Mr. STAFFORD. Will the gentleman yield?

Mr. ANDERSON. Yes.

Mr. STAFFORD. The gentleman's position is that indicated by myself, that the supplementary provisions are merely burdens not necessary for the proper supervision of the operation of this bill?

Mr. ANDERSON. I do not know that I agree with the gentleman altogether—perhaps I do not understand his question. I will say that I do not think it ought to be an offense for a man who has no opportunity to examine the product and test its potency to sell that article in interstate commerce or transport it in interstate commerce after the Department of Agriculture has passed upon it and said that it was potent and uncontaminated.

Mr. MOSS. Will the gentleman yield?

Mr. ANDERSON. Yes.

Mr. MOSS. Suppose the department has passed upon the serum and says that it is neither pure nor potent, and yet under the bill the department has not the power to destroy it, although it has the power to order it destroyed. Suppose, instead of destroying the product the firm sells it, does the gentleman think that that ought to constitute an offense?

Mr. ANDERSON. Yes; but this proposition goes far beyond that. Let me illustrate. Suppose the distinguished ranking member on the minority of the Committee on Agriculture, who lives at Northwood, Iowa, and who is a large farmer there, should send his hired man to Albert Lea, in the district I have the honor to represent, in the State of Minnesota, and this hired man should purchase of the druggist there certain serum which had been passed upon by the Department of Agriculture as potent and uncontaminated, should take it across the State line and use it there, and it should prove to be harmful or impotent, both the druggist who sold the article and the hired man who carried it across the line would be guilty of a crime under this act.

Mr. MOSS. Let me ask the gentleman the question, whether he does not seek to bring about the very condition that ought not to exist? We have in Indiana, and I presume they have in Iowa, many institutions that are manufacturing serum. So long as they do a purely State business they are not brought under the terms of this law. Suppose the conditions suggested by the gentleman exist. There is a druggist or other person who is selling serum which, under the terms which the gentleman states, could easily come across the State line. The serum has been manufactured in the State and is being manufactured and is sold for State consumption, and yet some one carries it across the line and offers it for sale. I would like to ask the gentleman if that man ought not to be brought under the law?

Mr. ANDERSON. Yes; I would say so. He would be guilty of an offense in selling in interstate commerce serum not prepared in a licensed establishment. I say it ought to be an offense for any man to sell or transport in interstate or foreign commerce, within the classes specified in this bill, serum which had not been inspected and passed by the Secretary of Agriculture; but when the serum has once been passed and inspected by the Secretary of Agriculture, then I say that it should be lawful to sell and transport it anywhere.

Mr. MOSS. Does the gentleman believe under the terms of this bill that where serum has been passed upon, inspected by the Secretary of Agriculture, and has been delivered for interstate shipment, and a certificate given regularly, and that particular shipment having complied with all of the conditions of the bill the sale of it would entail a penalty upon anyone?

Mr. ANDERSON. I say that under this law a man who sells serum which is worthless or contaminated is guilty of an offense, whether the serum has been inspected and passed or not. I do not say that he could be convicted of that offense, because I do not believe any jury would convict any person who sold an impotent serum if that serum had gone through the necessary processes and had been passed by the Secretary of Agriculture, or that any court would permit him to be convicted; but, notwithstanding, under the terms of the bill the man is guilty of a crime.

Mr. SLOAN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. Yes.

Mr. SLOAN. The gentleman is well versed in this bill, I see, and I note his objection, if correct, is quite important. Will the gentleman kindly point out in what section a penalty might be visited upon a man who purchased the serum in Albert Lea and brought it into Iowa and there used it, if, mayhap, it happened to be impotent, worthless, or poisonous?

Mr. ANDERSON. Section 6 provides that no carrier or other person, firm, or corporation shall transport or receive for transportation from one State or Territory or the District of Columbia, and so forth, any serum, and so forth, unless it is accompanied by a certificate showing that it has been prepared in compliance with the regulations prescribed by the Secretary of Agriculture. Here is a man who is transporting this serum or virus from Minnesota to Iowa, who has received no such certificate, and under section 6, technically, he would be guilty of an offense, assuming that the carrying of the article across the State line was commerce.

Mr. MOSS. If the gentleman were to strike out the provisions to which he objects, does he not believe he would take away all protection of the bill as to the conditions in which I speak?

Mr. ANDERSON. Not at all.

Mr. LEVER. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. Yes.

Mr. LEVER. The gentleman from Minnesota complains that the shipper must have a certificate.

Mr. ANDERSON. The carrier must have a certificate.

Mr. LEVER. The carrier must have a certificate that these products are pure and have been properly put up. I call the gentleman's attention to the act providing for the inspection of live cattle, hogs, carcasses, and products thereof, which are the subject of interstate commerce, and for other purposes, passed in 1891, where a certificate is required in all cases, and a vessel engaged in transporting these carcasses for export before it can get clearance even must have a certificate. Is not that an analogous proposition?

Mr. ANDERSON. I do not think it is. I think there might be very different reasons for requiring a certificate in case of foreign shipment than there would be in case of domestic shipment, so that I do not think the proposition which the gentleman from South Carolina raises is analogous at all.

Mr. REAVIS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. Yes.

Mr. REAVIS. The position taken by the gentleman, as I understand it, is that a shipper in good faith, acting upon the security of the certificate of the department, could violate the provisions of this law?

Mr. ANDERSON. Absolutely.

Mr. REAVIS. That is, he would be held responsible for the mistake of another?

Mr. ANDERSON. Yes.

Mr. REAVIS. And the mistake being the mistake of the very Government that would prosecute him for violation?

Mr. ANDERSON. The gentleman states it much better than I have. I think, Mr. Chairman, that that is all I have to say directly with reference to the proposition, except that I expect when the bill gets under the five-minute rule to offer some amendments which I think effect the changes in the legislation which I think ought to be effected.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. Yes.

Mr. STAFFORD. What difficulty has the department encountered in operating under the law of 1913?

Mr. ANDERSON. Perhaps I can explain that best by pointing out the difference between this law and the other law. The principal and fundamental difference is this: Under the present law the Secretary of Agriculture has no authority to test the serum, virus, and so forth, to determine its potency or its freedom from contamination. Consequently the department can not

and does not undertake under the existing law to pass upon the potency or freedom from contamination of the article. The concern that manufactures it undertakes to make the tests. It undertakes to guarantee the potency and freedom from contamination of the article. It takes the chances, notwithstanding the supervision of the Government, that the article may not be potent nor free from contamination. Under the present proposed law the department itself makes the tests; it undertakes to guarantee or to say at least that it has passed upon the serum and that it is free from contamination and is potent.

Mr. STAFFORD. I assume the gentleman refers to the authority conferred under section 4 upon the department where the manufacturers are even obliged to furnish the animals, materials, and facilities for the making of such inspection.

Mr. ANDERSON. Yes.

Mr. STAFFORD. Is there any other similar Government authority which compels manufacturers to furnish the laboratory needs and to provide for this inspection?

Mr. ANDERSON. Not that I am aware of, although probably there is something similar in the meat-inspection law. I want to say this about that, however: When this proposition was before the committee I had very grave doubts about the wisdom of the requirements to which the gentleman refers. I thought that the proper way to do this thing was for the department itself to furnish the animals and equipment and to make a sufficient charge in the shape of a tax upon the product to cover the cost of making the tests, but the department through its proper officials represented to the committee that they believed that these tests could be made effectively and efficiently under the provision which is carried in the bill, so I did not question the proposition further, although I still have grave doubts about doing it in this particular way.

Mr. STAFFORD. What is proposed by the department in carrying out this law? Is it proposed to have a laboratory in each manufactory or merely an experimental laboratory there to see whether the regulations are being conformed with?

Mr. ANDERSON. Oh, no; the proposition, as I understand it, is to have an inspector at each one of these plants who supervises the process of manufacture. The tests made are actual tests upon actual animals, I believe, except a very simple one to determine contamination, and these tests, I believe, will be made at the factory. The original proposition presented by the Secretary of Agriculture involved the transmission of samples of these viruses to a general testing station located here in the city of Washington, where samples would be tested to determine their potency and freedom from contamination.

Mr. STAFFORD. Then these inspectors will be paid by the National Government?

Mr. ANDERSON. Yes.

Mr. STAFFORD. As I understand, there are some hundred or more of these at the present time?

Mr. ANDERSON. No; I think not as many as that.

Mr. STAFFORD. According to the report, which was dated last June, there are 90 regular licensed manufacturers, and they were increasing very fast, and I base my estimate upon that.

Mr. ANDERSON. If that is in the report, doubtless it is correct.

Mr. STAFFORD. What burden will be placed upon the National Government with an inspector at each one of these establishments?

Mr. ANDERSON. Of course, I am not authorized to speak for the Department of Agriculture, so I do not undertake to say how the department will administer this law and whether it will have one inspector at each factory or one inspector making periodical rounds. Perhaps the gentleman from Iowa [Mr. STEELE] can enlighten the gentleman, and I yield to him.

Mr. STEELE of Iowa. As I understand, this serum is going to be tested on pigs. Now, I will read a letter from Dr. Melville which will perhaps explain what the gentleman has in mind. The letter is as follows:

> Referring to your telephonic request this morning, I am inclosing herewith circular letter dated November 20, 1916, which contains the information you desire. You will recall that the serum manufacturer furnishes his own hogs for the hog-cholera test, and under present conditions they are not under the control of the bureau.
>
> In order that you may have an abstract of the principal points in the above-mentioned circular letter, I wish to submit the following summary of the routine testing of hog-cholera serum:
>
> Eight nonimmune hogs are inoculated with a cubic centimeter of hog-cholera virus. Two of those are injected simultaneously with 15 cubic centimeters of serum, two simultaneously with 20 cubic centimenters of serum, and two simultaneously with 25 cubic centimeters of serum, the remaining two being left as controls. If all of the serum-treated pigs remain well, whereas the controls become promptly sick of hog cholera, the serum is permitted to be marketed in doses of 20 cubic centimeters per 100 pounds. If, however, either of the pigs which received 15 cubic centimeters become sick, while those receiving 20 and 25 cubic centimeter doses remain well, the serum is permitted to be marketed in doses of 30 cubic centimeters for 100 pounds or less. If either of the pigs receiving 20 or 25 cubic centimeters of serum become sick, the serum is not permitted to be marketed.

Now, the object of this bill in section 4 is to give the Government absolute control of the test pigs with a lock and key, making the manufacturer provide these places so that in observing these pigs from day to day, if some of them get sick, the manufacturer can not pass out the sick pig and put in a well one that never had had the serum injected into it and in that way destroy the potency of the serum. The absolute object of this bill is for the purpose of the Government having absolute control of each and every pig for the 21 days during which the test is being performed.

Mr. ANDERSON. Mr. Chairman, how much time have I consumed?

The CHAIRMAN. Twenty-two minutes.

Mr. ANDERSON. I yield to the gentleman from Wisconsin [Mr. STAFFORD], who desires to present an inquiry to the gentleman from Iowa.

Mr. STAFFORD. Permit me to direct this inquiry at the gentleman: I would like to inquire as to how often will these tests be made at the individual establishments?

Mr. STEELE of Iowa. Every time they have prepared a certain amount of serum they want tested in order to be placed upon the market.

Mr. STAFFORD. I understand it requires 21 days to determine whether it is efficient?

Mr. STEELE of Iowa. Yes, sir.

Mr. STAFFORD. Then if it is necessary to have an inspector there whenever serum is produced, I suppose there will be one inspector assigned to each establishment?

Mr. STEELE of Iowa. Practically so, and perhaps not. It does not seem to me that it would require an inspector at each of the plants. Say at my town there are six manufacturing institutions. Now, if this veterinary who has control of this test has the lock and key he can go over the manufacturers' premises and see that these hogs are properly fed each day and observe their actions during the test. I do not think it would be necessary to have an inspector there continuously and at all times.

Mr. STAFFORD. Oh, no; but considering the operation of the Government, that they do not look always to filling in and dovetailing in the time of their employees so that they can have economy of service, does not the gentleman think in the practical operation of this law that there will be one inspector for each establishment even though he may not be there all the time?

Mr. STEELE of Iowa. I should say I do not believe that would be true. I do not believe the Secretary of Agriculture or the Bureau of Animal Industry would permit the time to be wasted in that way if they could adjust it so that they could use him some place else.

Mr. STAFFORD. Has the gentleman any practical experience as to how often the average-size manufactory produces serum in the course of a year?

Mr. STEELE of Iowa. Really, I can not say, but I do know in the 80 or 85 manufactories it takes about 24,000 test pigs to test out the serum that is necessary to supply the market.

Mr. STAFFORD. Can the gentleman inform the committee as to how long after a certain product of serum is produced that it remains potent?

Mr. STEELE of Iowa. As I understand, up to one year.

Mr. ANDERSON. The gentleman is mistaken about that. I talked with Dr. Dorset the other day over the telephone and he told me they had tested serum that was six years old and that it was found to be potent, but he thought under proper conditions that serum would remain potent for two years at least. Of course, it does make a difference as to the temperature and conditions under which it is kept.

Mr. REAVIS. Will the gentleman yield to me?

Mr. STEELE of Iowa. Yes.

Mr. REAVIS. The question was asked a moment ago by the gentleman from Wisconsin as to whether it would not require a separate inspector for each establishment. Is it not true that a number of these serum establishments are located in Sioux City, Kansas City, and St. Joseph, adjacent to the stockyards?

Mr. ANDERSON. A great many of them are.

Mr. REAVIS. And would it require more than one inspector at each of these places?

Mr. ANDERSON. Probably more than one; yes.

Mr. REAVIS. Would not one inspector, say, in Kansas City, be able to inspect all of these serum establishments there?

Mr. ANDERSON. I hardly think so; not and maintain that supervision and control of the processes and of the tests which the departments seem to think is necessary.

Mr. REAVIS. Would it require a separate inspector for each serum establishment?

Mr. ANDERSON. Well, possibly not. Mr. Chairman, I reserve the balance of my time.

Mr. RUBEY. Mr. Chairman, I yield five minutes to the gentleman from Indiana [Mr. Moss].

Mr. MOSS. Mr. Chairman and gentlemen of the committee, I would not speak if it had not been for the particular question which the gentleman from Wisconsin [Mr. STAFFORD] asked in regard to the troubles at the present time in the operation of law which regulates and controls the manufacture and sale of serums. I would like the committee to remember that this serum remedy for hog cholera is based upon the theory that when a hog has had the cholera once and recovers it is immune the rest of its lifetime. It is to be remembered that the injection of serum into the system of a hog, unless it is first innoculated with cholera, does not grant immunity except for a comparatively short time. Therefore, with serum there is sold a virus, which is for the express purpose of innoculating the hog with cholera. The treatment seeks, first, to give the hog cholera by injecting virus and then to cure it by the use of serum. This treatment, when successful, bestows immunity to cholera during its lifetime. Now, necessarily, if the Government sends out instructions to farmers all over the United States to venture to innoculate their hogs with cholera, they will do so only when imbued with the confidence that they are to have a serum that will protect the hog by neutralizing the germs of cholera which have purposely been injected in the hog. Unless it is possible to give them pure serum, the department is playing with fire in advertising this remedy. And when it shall occur that the serum is not potent the farmer loses his hogs and a new center of infection is created. A whole neighborhood has been exposed to hazard because of a poor remedial agent. Science becomes destructive rather than helpful. This is precisely what happened in my district during the past year and under the operation of the present law.

One of my constituents, a large hog grower, sent out to the West—I shall not state as to what place, though I have seen the correspondence—and purchased virus and serum. He believed he was protected by the fact of governmental supervision of the plant making the serum. He inoculated his hogs. This occurred in Hendricks County, Ind., where the Government has an experiment station, Dr. Wickwire being in charge of it. These hogs took the cholera and died, the serum protecting none of them. The result was the farmer lost more than 75 hogs and introduced cholera into that neighborhood, though he had acted in good faith and was supposed to be following a scientific formula. He had knowingly inoculated them with cholera and given them serum which did not prove to be potent enough to protect his herd. This may happen any time impotent serum is used with the simultaneous method. He called it to the attention of Dr. Wickwire, who told him his hogs had the cholera, but that the Government was absolutely powerless to help him. I called this instance to the attention of the department and submitted the correspondence in the case; but the department could not call back his hogs to life nor reimburse him for his losses. That is one circumstance that has come under my observation during the time the law of 1913 has been on the statute books. Naturally we ask a more effective statute.

Now, if you are in earnest, and if Congress wants to make this remedy a success, it must be made possible for a farmer when he inoculates with deadly virus to feel that he has absolutely a remedial agent which will surely protect him. I want the Members, Mr. Chairman, to remember that the simultaneous treatment—the treatment which makes the hog immune during life—consists first in actually introducing the germs of cholera into the hog and at the same time injecting serum which has the power to protect the animal. Every time a hog is vaccinated with virus the farmer assumes the risk of bringing the cholera onto his own farm and into his herd. This is the reason why this bill presents an exceptional condition and why exceptional power should be given to the Department of Agriculture in order to make it possible for farmers to secure potent serum.

These facts must be borne in mind during the consideration of this bill. The serum is a harmless remedy. The serum itself does not introduce disease germs into the system of a hog, although it is supposed to give protection. But permanent protection can not be given to the hog by the administration of the serum until the animal has first been vaccinated or inoculated with the virus of hog cholera. The whole theory is that the vaccination or inoculation of the hog with the virus of cholera and the simultaneous application of serum makes the hog immune during its lifetime.

If you will hold that theory in your minds, gentlemen, you will understand this bill. The farmers of this country are asking that the Federal Government shall make it so that in the practical use of this remedy they can have a reasonable—no; not a reasonable, but an absolutely certain—protection against the constant hazard which it inherently carries; that if they introduce this deadly disease into their herds they will have a remedial and not a destructive agent at their service. That is the whole theory of this bill, and unless you are going to give that protection you had better prohibit absolutely the manufacture and sale of serums and viruses. We had better suffer from occasional invasion of hog cholera into our herds than to risk the very frequent outbreaks which may follow the use of impotent serums.

Mr. HASTINGS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. Yes; with pleasure.

Mr. HASTINGS. For how long is the hog immune if you give him the virus and the serum?

Mr. MOSS. For not more than three or four months. I am not sure that the serum will give ample protection for three months. I will repeat that in speaking of the virus you are speaking about a toxin that carries with it the disease of cholera itself, and that the serum is supposed to neutralize the cholera and give the hog protection. Necessarily a farmer only wants to do that once during the lifetime of his hog. Ordinarily the farmer takes a shote after it has been weaned, when it is of comparatively low value, and gives it the prescribed treatment—first inoculating it with the virus and then with the serum. If the operation is successful he has an immune hog; if it fails, he will have a hog stricken with cholera.

The current number of the Scientific American, one of the most carefully edited journals in the United States, in one of its leading articles, makes the statement that the farmers have lost from hog cholera on the average $40,000,000 a year in the last 40 years, and that in certain years the loss has reached the high total of $75,000,000.

I am proud of the fact that since I have been a Member of Congress the serum remedy has become publicly advertised and is being used to a large extent by the farmers of the United States. This result has been wholly due to the experimental field work which has been carried on in certain of our States. Until this very practical work was done, although it was well known that the remedy had been perfected by Dr. Dorsett, the public derived no practical advantage from his most valuable work. Fortunately it has passed to the point where vast numbers of farmers of the United States want to make practical use of this remedy, and their only hesitation is whether they can do so with safety to their herds. In this connection we should remember that there are at least 70,000,000 hogs in the United States, every one of which is liable under present conditions to have the cholera. The work before us is to make it possible for each and every hog to be vaccinated, and thereby stamp out this dread disease from every part and section of our Nation. This suggests the vast work of manufacture and supervision in order to develop a commercial remedy in which everyone will have confidence. Necessarily this result will call for very large activity on the part of the United States Government, and will demand a splendid administrative ability on the part of the Secretary of Agriculture.

This bill must be taken and viewed by the Congress of the United States in the light of the exceptional dangers that come with use of this remedy; that every hog treated must be subjected to a direct exposure to the dread disease we desire to control. Failure means not only a loss of the treated hogs but the spread of the disease. Either the serum must be supplied in ample quantity and of absolute potency or we should prohibit by law the exposure of hogs by inoculating them with cholera virus. Therefore I submit that the stringent provisions of this bill are amply justified and ought not to fall by reason of hypercritical objections on the part of gentlemen who are proceeding upon theory, and not on practical experience. [Applause.]

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. RUBEY. Mr. Chairman, I yield five minutes to the gentleman from Ohio [Mr. OVERMYER].

The CHAIRMAN. The gentleman from Ohio is recognized for five minutes.

Mr. OVERMYER. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by inserting an article appearing in the Scientific American of December 30, 1916, relating to the inoculation of hogs by serum.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Following is the article referred to:

INOCULATING THE MORTGAGE LIFTERS—HOW THE DISASTROUS HOG-CHOLERA EPIDEMIC IS BEING CONTROLLED.

[By C. H. Claudy.]

"Hog" is a term of derision or contempt for the man in the city. But the farmer calls his hogs "mortgage lifters," because the revenue derived from swine raising is responsible for much of farming prosperity, and because were it not for hogs and the profit they bring many a farm would go unimproved and undeveloped.

If one hog in a herd of a hundred dies, the farmer is sorry, but he doesn't tear his hair. But if the ninety-nine die the one that is left doesn't do him much good. A thousand, a hundred thousand, even a million dollars' worth of hogs might be exterminated yearly, and still there would be no great economic problem to face. But when, as happened in 1913, $75,000,000 worth of hogs die from a disease for which there is absolutely no cure—hog cholera—then, indeed, a wail goes up from the hog raisers.

At the present time there are 68,047,000 hogs in the United States. Their value is $571,890,000. The average loss annually due to hog cholera during the last 40 years is estimated at not less than $40,000,000. This is altogether too large a percentage to give up in one year to a disease which, while incurable, is preventable. And while the loss in direct dollars can be estimated the indirect loss, due to the discouragement of hog breeders, is without a price to set upon it, and no man can say what the public has had to pay because of the increased price of ham and bacon, which might have been saved were hogs freed from this, their greatest pestilence.

It was consideration of these things and realization of the urgent need for assistance to those whose greatest wealth was disappearing in dead hogs that made the Bureau of Animal Industry of the Department of Agriculture begin in the year of greatest loss (1913) a series of experiments looking to the eventual control of hog cholera by quarantine, sanitary measures, and preventive serum treatment. These experiments extended during 1914, 1915, and 1916 to 15 counties in Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Tennessee, Nebraska, Missouri, Oklahoma, and South Dakota.

The treatment of almost a quarter of a million hogs in infected herds has demonstrated the possibility of saving from 85 to 90 per cent of the animals. A determined effort on the part of the proper State officials and farmers cooperating with the bureau can undoubtedly control and eventually eradicate the disease.

Hog cholera is an acute febrile disease which affects only hogs. It is extremely contagious. While it is found practically all over the world, it is especially prevalent in the hog-raising districts of the United States. It first occurred in 1833 in Ohio, supposedly from imported hogs from European countries. The disease has gradually extended to all portions of the United States along lines of transportation.

Hog-cholera mortality is 100 per cent in some herds, while the average is probably from 70 to 80 per cent. Hogs which survive are usually worthless. There is no cure for hog cholera. But it is preventable, and by a method which will ring naturally in ears accustomed to hear of preventive serum for human diseases. Starting with the fact that hogs which recover are thereafter immune, the bureau discovered that an immune, injected with blood from a sick hog, can provide blood which will protect other hogs.

The process is scientific and exact and its results wonderful. A vigorous immune hog is treated with much blood from a hog-cholera patient. After a week or two blood is drawn from the immune by cutting off the end of the tail. The fluid portion of the blood is mixed with weak carbolic acid, forming the serum which protects from hog cholera. It is used either by simple or by simultaneous inoculation.

In the first method an injection of serum alone is made inside the hind leg. This protects from hog cholera for several weeks. If not exposed to hog cholera the immunity gradually lessens in degree and the hog may again become susceptible. If, however, the hog is exposed to hog cholera within a short time after the injection of the serum, the immunity becomes of lifelong duration. In simultaneous inoculation the same serum is used, but there is also injected a small quantity of blood taken from a hog-cholera patient. This confers a permanent immunity.

So much for the facts. Now for the results. We give the figures of the Bureau of Animal Industry. Of the sick members of infected herds treated by the bureau's agents during three years, 28.8 per cent died; of the well members the mortality was 4.5 per cent among those treated by serum alone and 3.7 per cent among those enjoying simultaneous treatment. These results are indeed marvelous.

Hog-cholera work is by no means confined to serum treatment. Close study of 738 cases showed that only 177 came from indefinite causes. The rest were directly traceable to some source, often preventable. One hundred and forty-five cases were traced to birds, 110 to visiting infected premises, 89 to exchanging work with infected farms, 52 to dogs, 50 to exposure of well hogs to sick ones in adjoining pens or pastures, 41 to infection harbored from previous sickness, 10 to polluted streams, 30 to purchase of new stock, and 4 to infection on cars.

From an examination of these and other causes of hog cholera a simple set of preventive rules has been evolved. Farmers in whose neighborhood hog cholera exists are advised to follow implicitly these rules, which consist in nothing else than the application of commonsense methods of preventing the operation of the causes enumerated and in the adoption of decent sanitation in the homes of the pigs. The latter requirement may well be emphasized, in view of the still wide prevalence of the good old-fashioned notion that a pig is a creature of filth anyhow and will flourish only in filth. Nothing could be further from the truth.

These methods, together with serum treatment, have greatly reduced the economic loss, but the ideal of the bureau is the complete eradication of the disease. To this end at the present time intensive hog-cholera work is being conducted in 130 counties in 13 States, with a view to the eradication of the disease in restricted areas.

The system is to select a definite territory in each State, assign competent bureau veterinarians to such territories, who cooperate with State authorities. Because the disease is so highly infectious and incurable, the important part of the work is one of prevention. Special stress is laid on the importance of sanitation, guarding against introduction of infection, and the better care of swine in general. The facilities of the bureau are available whenever hog cholera is prevalent.

Mr. OVERMYER. In this connection, Mr. Chairman, I want to say that the article brings out quite pointedly the matters mentioned by the gentleman from Indiana [Mr. Moss], who has just concluded, and it brings out this further fact, which we must always bear in mind in connection with hog cholera, and that is that it is not a curable disease, and therefore all our efforts must be directed to preventive measures. When a hog once becomes inoculated with cholera that hog cholera is not curable unless you at the same time introduce the serum, as stated by the gentleman from Indiana. Hog cholera itself is not curable, and therefore our energies must be directed to preventive measures. This bill that we are now considering is along that line. It will insure to the farmers of the country purer and more potent hog-cholera serums.

The first appearance of hog cholera, I regret to say, in this country was in my native State of Ohio in 1833, and since that time it has caused losses in the United States aggregating as high as $75,000,000 in one year, and it is estimated that in the last 40 years it has caused a loss averaging $40,000,000 annually. Up until 1913 the Department of Agriculture did not pay particular attention to preventive measures in the matter of the sanitation of the premises and things of that kind. But since 1913 they have made studies along the line of preventing hog cholera by remedying the conditions and environment in which the animal is kept, and in conjunction with those measures and the use of cholera serums they have had very successful results.

In fact, this article to which I have referred states that the treatment of almost a quarter of a million hogs in infected herds has demonstrated the possibility of saving from 85 to 90 per cent of the animals. It seems to me that in these times when so much is said about the high cost of living, and when we are all cognizant of the fact that the price of meat, and especially of pork, is almost prohibitive, any measures that we might take to safeguard ourselves against this enormous loss of hogs are commendable, and any money that we may expend in that work is money well applied. I am heartily in favor of the bill that is being considered. [Applause.] I yield back the balance of my time.

The CHAIRMAN. The gentleman from Ohio yields back the balance of his time. The Clerk will proceed with the reading of the bill, if there is no one who wishes to occupy time.

Mr. MANN. Mr. Chairman——

The CHAIRMAN. Did the gentleman from Minnesota yield?

Mr. MANN. I am asking for recognition. If the Chair can not see me, I can not help it.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. MANN. To be recognized. I do not have to explain to the Chair what I am going to do.

The CHAIRMAN. Is the gentleman in opposition to the bill?

Mr. MANN. That is not the business of the Chair, whether I am in opposition to the bill or not. I do not have to explain.

The CHAIRMAN. The gentleman can wait a moment. The gentleman from Minnesota [Mr. ANDERSON] is recognized for an hour in opposition to the bill, and the Chair was wondering whether or not anybody else could take his time.

Mr. MANN. If the gentleman from Minnesota wants the time, I will yield.

Mr. ANDERSON. Mr. Chairman, the gentleman asked to be recognized in his own right.

The CHAIRMAN. Does the gentleman from Illinois ask the gentleman from Minnesota for time?

Mr. MANN. No; I am not asking the gentleman from Minnesota for time.

The CHAIRMAN. Under the circumstances the gentleman from Illinois [Mr. MANN] is recognized for 32 minutes.

Mr. MANN. Not at all. I am recognized for one hour if I am recognized at all.

The CHAIRMAN. Then the gentleman will not be recognized.

Mr. MANN. Very well, I will wait until you read the bill, and then I think I will be recognized.

The CHAIRMAN. Under the rule for Calendar Wednesday the Chair understands that there are two hours' debate, an hour for and an hour against the bill. Now, the Chair assigned to the gentleman from Missouri [Mr. RUBEY] an hour for the bill and to the gentleman from Minnesota [Mr. ANDERSON] an hour against it.

Mr. MANN. The Chair is correct.

Mr. ANDERSON. I yield to the gentleman from Illinois the balance of my time.

The CHAIRMAN. The gentleman from Illinois is recognized for 32 minutes.

Mr. MANN. Mr. Chairman, I am not opposed to the bill. I do not think the gentleman from Minnesota [Mr. ANDERSON], who has yielded me time, is opposed to the bill.

I have had some little experience in drafting legislation which came under the commerce clause of the Constitution. There are two methods, and perhaps more, by which Congress has control over commerce and manufacturing. One method is under the power of taxation, or licensing. One method is under the commerce clause of the Constitution, giving the right to regulate commerce among the States and with foreign powers. In the legislation which I have drafted I have endeavored to be very careful, and so far I think every piece of legislation which I have drafted has been upheld by the Supreme Court as constitutional. That is because the committee upon which I served was careful to come within the terms of the Constitution. This bill as it is written is not constitutional. Anybody can see that. That is, portions of the bill are unconstitutional.

I suppose it was drafted probably in the Department of Agriculture, a department which is wise in reference to agriculture, but never has known much about the Constitution, because nearly all the things done by that department are things not contemplated as within the power of the Federal Government under the Constitution. Nearly all of them are extraconstitutional. It is true that this bill in its last section endeavors, in a very sloppy method, which seems to have become popular lately, to save the constitutional provisions of the bill when the Supreme Court declares other provisions unconstitutional, because it says in the last section:

That if any clause, sentence, paragraph, or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Of course the drafter of the bill, when he puts in that language, says to himself, "It does not make any difference whether I write a constitutional measure or not. I may by accident get something in it which is constitutional, and if by accident or design I get anything which is unconstitutional in it, that shall not affect the balance." I am inclined to think that when a provision like this reaches the Supreme Court and the Supreme Court says that the design of Congress was to accomplish a certain purpose, and that that purpose is unconstitutional, the court will say the act is unconstitutional, and will not merely confine it to saying that certain language in the act is unconstitutional.

There is no reason why a bill of this sort should not be drafted so as to be constitutional; not the slightest. There is no reason why an unconstitutional provision should be ingrafted in the bill. For instance, this bill provides properly that serums shall not be transported in interstate commerce unless they are manufactured in an establishment licensed by the Government. I think we have that authority. We have the right to say that when you want to ship anything in interstate commerce it shall be manufactured in a certain way, that it shall be labeled in a certain way, and shall come up to certain requirements of health. We have that right. But because we endeavor to regulate interstate commerce and to require these articles to be manufactured in a licensed establishment we have no right to say that that establishment shall not make anything for commerce wholly within the State. We have no control over that. We can not control the licensed establishment, except so far as it relates to interstate commerce, unless the establishment consents as a prerequisite to receiving the license. Now this bill provides——

Mr. HUMPHREYS of Mississippi. Will the gentleman yield for a question?

Mr. MANN. Yes.

Mr. HUMPHREYS of Mississippi. I should like to know just what the gentleman means by his last statement.

Mr. MANN. Very well. The gentleman asks what I mean by my last statement. We can say to an establishment, "We will not license you to manufacture articles for interstate commerce unless you consent to certain regulations." I think we have that power. But we can not punish them criminally. All we can do is to revoke the license, and then forbid the shipment of their articles in interstate commerce because they have no license. Now, that is not the theory of this bill. At least, it does not stop there. It proposes to punish as a misdemeanor, by fine and imprisonment, a licensed establishment which permits the removal from the establishment in the State, not in interstate commerce, of articles the shipment of which in interstate commerce is forbidden. We have not that power.

Mr. Chairman, I have a cold and I need a little serum myself. I have often wondered why these great scientists, who claim that they have discovered serums for everything on earth, have never yet been able to discover anything which will prevent or cure a thing that most of us suffer from and which all the world suffers from more than anything else—a cold. I once asked the head of the Public Health Service if he could tell me how to avoid catching a cold and he said he could. He said, "Never go where there is a crowd of other people." I said, "It would be much easier for me to jump out of this window, six stories high, for then I know I would never have a cold after that." We propose, however, here to prevent and cure hog cholera and other animal diseases by the application of serum.

In section 3 it is provided—

It is hereby made unlawful for any person, firm, or corporation to sell, barter, exchange, or ship or deliver for shipment as aforesaid, or, otherwise than in compliance with the regulations prescribed by the Secretary of Agriculture, to remove from any establishment licensed under this act any virus, serum, toxin, or analogous product for use in the treatment of domestic animals which has not been examined, inspected, tested, and passed in compliance with the regulations prescribed by the Secretary of Agriculture.

We have no such authority. We have no right to say that a manufacturing establishment in Baltimore or Philadelphia shall not permit the removal of anything it makes within the limits of the State, except as we may invoke the penalty of revoking the license; but that is not the method prescribed in this bill. If these people permit the removal of this serum within the State which we can not control, the bill proposes to subject them to fine and imprisonment, and we do not have that authority. We have no control over intrastate commerce.

Now, it was easy to have prepared a bill which would cover the case, which would say and stop there: "You shall not transport any of these articles in interstate commerce which are not made in a licensed establishment, and no establishment shall retain its license which does not obey the regulations which we prescribe." But we have no authority to say what a manufacturing establishment in one of the States shall do in reference to selling its articles in the State, beyond possibly our authority to revoke the license.

Mr. LEVER. Will the gentleman yield?

Mr. MANN. I will.

Mr. LEVER. I have been following the gentleman's argument very closely and am much interested. What would be the difference in the authority of the Secretary of Agriculture to withdraw the license which would be in the nature of a penalty, and making it unlawful for them to do certain things which the gentleman has been describing? Does the gentleman think the latter proposition would be constitutional if the first is not?

Mr. MANN. We have the authority to prescribe that these articles shall not be transported in interstate commerce except under certain conditions—relating to health. We have a broader authority under the decisions of the court in matters relating to health than we would have in reference to ordinary articles of commerce. We have the authority to require them to be packed and to be labeled in a certain way, to come to certain requirements if they are to pass the State line, and I think we have the authority to say that they must be manufactured in an establishment selected or licensed by the Government. There our authority ends. We have no authority to go into a State and say to a manufacturing establishment in the State: "If you make something wholly for consumption within the State, we will put you in prison for it." That is what this act says. If we assume such jurisdiction as that, what is there left for the States at all? If the Government of the United States, under the theory of regulating commerce, can say that a store shall not sell anything unless the Government of the United States permits it, under the penalty of fine and imprisonment, what is there left for the State to do?

Mr. LEVER. Will the gentleman yield for a question?

Mr. MANN. I will.

Mr. LEVER. The language to which the gentleman is directing his remarks, page 3, section 3, says:

It is hereby made unlawful for any person, firm, or corporation to sell, barter, exchange, or ship or deliver for shipment as aforesaid, or, otherwise than in compliance with the regulations prescribed by the Secretary of Agriculture, to remove from any establishment licensed under this act any virus, serum, toxin, or analogous product for use in the treatment of domestic animals which has not been examined, inspected, tested, and passed in compliance with the regulations prescribed by the Secretary of Agriculture.

Mr. MANN. Now, right there at that point.

Mr. LEVER. The part above that would fall within the power of Congress to legislate, and the gentleman's complaint is on the words "remove from any establishment licensed under this act." I was about to inquire if the court would not interpret the language to mean remove for interstate commerce rather than to remove for intrastate commerce.

Mr. MANN. You can not interpret it; that is what it says: "You shall not remove it." It is a very doubtful interpretation as to whether the sale above is confined to interstate commerce; it undertakes to say that you can not sell any of these articles, when the law is plain that under the law after an article passes

into interstate commerce and the original package is broken Congress has no jurisdiction over it.

Mr. LEVER. The gentleman knows that I make no pretension to being a lawyer, but, interpreting it as a layman, I thought the court might hold that the words "barter, exchange, or ship" meant barter, exchange, ship, or sell within the agencies of interstate commerce which are recognized by the Constitution as a matter over which Congress has authority, as well as the language to remove from the establishment, the court would hold that that meant to apply to the agencies of interstate commerce recognized by the Constitution. That was the thought that I had in my mind.

Mr. MANN. That is not what the act says. I do not know what the court would hold; it might strain the language or read something into it. Anyone reading the language would say that the manufacturer had no right to remove any of these serums from this plant—and he ought not to without having his license revoked.

Mr. LEVER. The gentleman has raised an interesting question, but it seems to me that any administrative officer interpreting this act would certainly not put an interpretation upon it that he knew was unconstitutional. In other words, he would not do that which he knew the Constitution forbade him to do.

Mr. MANN. He would not know anything about it; even the solicitor of the department who drew the bill did not know what the Constitution provided—probably had never read it. [Laughter.]

Mr. HELGESEN. Will the gentleman yield?

Mr. MANN. Yes.

Mr. HELGESEN. Would not the objection of the gentleman be removed by inserting, after the word "animals," line 17, "if transported in interstate commerce"?

Mr. MANN. The only way to obviate the objection is to redraft that provision in the bill. As far as construction is concerned, construction can do some things. For instance, section 2 provides—eliminating some language which is not essential to the point I am making—"no person, firm, or corporation shall prepare, sell, barter, exchange, or ship any virus until said virus, serum, toxin, or analogous product shall have been prepared," and so forth. Of course, that is open to construction, although the language says that it shall not be prepared until it has been prepared.

There are other defects in the bill which I desired to discuss along the constitutional line, but there is one that does not involve a constitutional question that I want to discuss. That is the provision putting a penalty on the carrier for carrying this serum that may not comply with the provisions of the act. Common carriers carry freight which is presented to them. That is their business. The less regulation we provide in the presentation of freight the cheaper are the freight rates. It is not the duty of the common carrier to ascertain the contents of every package which is presented to him. It would be a foolish provision to require every freight agent in the country when he receives an article of freight to have to examine an affidavit in connection with it and find out whether he was permitted to transport it.

Mr. GORDON. Mr. Chairman, will the gentleman yield?

Mr. MANN. Yes.

Mr. GORDON. If this was transported by parcel post it might render public officials liable to criminal prosecution, might it not?

Mr MANN. Yes. The person to make amenable to prosecution for the transportation of articles illegally is the man who commits the violation. He is the man who makes the shipment, he is the man who sends the article. You might as well blame a conduit pipe for carrying water through it illegally instead of the man who pours the water in. Under this provision a man who came over from Iowa to Rock Island, Ill., and purchased some serum and carried it back across the Mississippi River without obtaining a certificate would be liable to a year's imprisonment and a thousand-dollar fine. Of course he would not get it, for nobody would convict him, but there is no occasion, there is no demand for putting such a burden, not merely upon the carrier, but upon the shipper, and the inevitable result would be that the freight rate upon serum, if this goes into effect, will have to be raised. Neither the pure-food law nor any of the other laws which we have passed on these lines have attempted to put the burden upon the carrier of determining whether the shipper is complying with the law. If the shipper does not comply with the law he is the one to be prosecuted. If the consignee does not comply with the law and he receives articles, he may be prosecuted, but as a matter of fact the Government has no difficulty in holding these people responsible. If that serum is received somewhere the Government gets this information without trouble, and it can bring the prosecution properly against the persons who consign it. As a matter of fact, also, if a bill like this goes into effect, and I think some legislation should be enacted, there probably will not be any shipments of serums across State lines except those made in manufacturing establishments. To add any further burden to the shipment is useless and inexpensive. Why should a shipper every time he wants to ship an article of this sort at his risk be required to submit to the railroad company an affidavit for the benefit of the railroad company and then why should we require the freight agent of the railroad company to examine the affidavit and then at his risk ascertain if the article is wholesome and legal under the provisions of the act? I think section 6 of this bill ought to be stricken out and that it can be stricken out without in any way whatever affecting or injuring the value of the regulation of viruses as provided by the other sections of the bill.

Mr. RUBEY. Mr. Chairman, does the gentleman from Minnesota desire to use any more of his time?

Mr. ANDERSON. I have no more requests for time.

Mr. RUBEY. How much time is left to each side?

The CHAIRMAN. The gentleman from Missouri has 27 minutes and the gentleman from Minnesota 3 minutes.

Mr. RUBEY. Mr. Chairman, I yield now to the gentleman from South Carolina [Mr. LEVER].

Mr. LEVER. Mr. Chairman, this bill was prepared by a subcommittee of the Agricultural Committee. I was not a member of the subcommittee. However, I am more or less familiar with its provisions, and more or less familiar with the theory upon which the bill is built. I have been much interested in the argument of the gentleman from Illinois [Mr. MANN]. I have so much confidence always in his judgment and fairness upon such propositions that I listened to him with more than ordinary interest. It seems to me, however, that if this bill is read as a whole and not by segregated sections the gentleman's fears may be met. The Secretary of Agriculture, under section 1 of the bill, is authorized to issue licenses to certain establishments for certain purposes. First, the Secretary is authorized to issue licenses in the Territories, in the District of Columbia, and in any place under the exclusive jurisdiction of the United States. That is the first proposition. The establishment must be located at a place within the exclusive jurisdiction of the United States. Second—and this is the point I am driving at—the establishment must be engaged in the manufacture of certain things for certain purposes. Those certain purposes are for shipment into interstate and foreign commerce. The gentleman from Illinois admits that Congress has the power to do that under the commerce clause of the Constitution. His objection is founded in the language on page 3, section 3, particularly that language which makes it a penal offense for any establishment to permit to be removed any virus, serum, toxin, or analogous product for use in the treatment of domestic animals which has not been examined, inspected, and so forth. I want to call the gentleman's attention, however, to this language—"to remove from any establishment licensed under this act."

Mr. STAFFORD. Where is the gentleman reading?

Mr. LEVER. I am reading from line 15. The only establishment that may be licensed under this act is such an establishment at such a place or under such jurisdiction and engaged in such work as is described in section 1 of the bill, and section 1 of the bill is not a stretch of legislative authority. I take it, not as a lawyer, but as a layman, that a court would interpret the language just read and the language immediately above as conferring no authority except such authority as Congress has the power to delegate to one of the administrative officers of the Government.

I do not know whether that satisfies even my own mind, because I am not a lawyer; but I would say this: That I do have a very great respect for the Solicitor of the Department of Agriculture, who was this morning personally asked about the proposition as to the constitutionality of this bill, and he informed the gentleman from Missouri [Mr. RUBEY] that he had gone into that phase of the situation very carefully, and he does not find any provisions which he thinks are unconstitutional. Of course, that is a matter of judgment between good lawyers.

Mr. MANN. Mr. Chairman, if the gentleman will permit me, I remember several times through the plant quarantine act of other such instances, and really without any prejudice against them, if a first-year student in a law college could not have found it to be unconstitutional, I would think he was not qualified to study law. It was remodeled, and remodeled, and remodeled, and finally a constitutional measure was presented, but that department never thought it out. The gentleman said the objection that I made was to section 3. Take section 2, which is still more important. That was plain. The first part

of section 2 prohibits the sale within the District of Columbia or the Territories. That is plainly within our jurisdiction. The second part of section 2 provides that no person shall sell, barter, or exchange any of these serums.

Mr. LEVER. "As aforesaid." I take that language to mean in interstate and foreign commerce.

Mr. MANN. You have already had a prohibition upon the sale. This is a prohibition on the sale, barter, or exchange. The thing in interstate commerce is the transportation, not the sale.

Mr. LEVER. I take it the gentleman's objection would be cured by the repetition of the phrase "as aforesaid," and that phrase "as aforesaid" relates to the uses and instrumentalities of interstate commerce.

Mr. MANN. If the gentleman is correct, the sale as aforesaid refers as to what goes before. Then it only refers to sale in the District of Columbia and the Territories and is an idle——

Mr. LEVER. The gentleman is mistaken about that.

Mr. MANN. An idle and useless repetition.

Mr. LEVER. It says "or in any place under the exclusive jurisdiction of the United States." That is the phraseology.

Mr. MANN. That is, States and Territories and applies to the District of Columbia, Hawaii, and Alaska.

Mr. LEVER. All States or Territories or the District of Columbia or through any State or Territory or the District of Columbia. That is the usual language describing interstate commerce, as I understand.

Mr. MANN. Oh, that refers to the shipment. You do not sell through a State; that refers to the shipment. The effort is to say that you shall not sell these articles anywhere. We have not the power over that. After the package is broken we can not control it.

Mr. LEVER. That may be.

Mr. TILSON. Mr. Chairman——

Mr. LEVER. I yield to the gentleman for a question.

Mr. TILSON. If the gentleman has finished with his reply to the gentleman from Illinois, I would like to ask the gentleman two questions on another matter. First, what, in general, is the evil that is intended to be obviated by the passage of this particular bill?

Mr. LEVER. I was just about to come to that. Mr. Chairman and gentlemen of the committee, I repeat I am not very familiar with all the details of the bill, but I am familiar with the general purpose sought to be accomplished by the bill. We know that hog cholera is costing this country from $40,000,000 to $75,000,000 a year, sometimes more and sometimes less. We know that if we are going in any way to affect the price of food products we have to do something somehow to increase the amount of meat foodstuff to be put upon the market.

Mr. TILSON. Right there, my experience has been that the great difficulty has been to obtain the serum at all, and it seems to me this is aimed at something else.

Mr. LEVER. I am coming to that, if the gentleman will permit me. What we are trying to do in this bill primarily is to save to the producers and consumers of meat food products of this country a loss of from $40,000,000 to $75,000,000 a year in their hogs. We are trying to prevent that loss, a loss caused by the disease known as hog cholera. The scientists know that we can practically immunize all the hogs of this country from hog cholera if the viruses and the serums are both pure and potent, and what we are trying to do directly in this bill is to guarantee a pure and a potent treatment for hog cholera.

Mr. ANDERSON. Does the gentleman think we can accomplish that result by passing a law which is obviously unconstitutional and unenforceable in many particulars?

Mr. LEVER. The gentleman has asked me a very frank question and I will answer him frankly. A subcommittee was appointed by the chairman to consider this bill. On that committee we had some good lawyers. I am not so sure but that I would be no more willing to trust the judgment of the gentleman from Minnesota as to the constitutionality of this bill than to trust some of the lawyers on that committee, although I have a profound regard for the gentleman's legal ability.

Mr. ANDERSON. That subcommittee gave no consideration at all to that question.

Mr. LEVER. The gentlemen on the subcommittee can speak for themselves; they are here.

Mr. HELGESEN. Does not the gentleman think the last half of section 2, beginning with "No person, firm, or corporation shall prepare, sell, barter, exchange, or ship or deliver for shipment as aforesaid any virus, serum, toxin, or analogous products manufactured in the United States," and so forth, would interfere with interstate commerce?

Mr. LEVER. If the gentleman thinks so, it might be we can reach that when we come to consider the section under the five-minute rule. I now yield to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. I just wanted to ask the gentleman from South Carolina whether this would not take away from the States the power through their properly constituted authorities to regulate the manufacture and preparation of serum, such as is provided in this bill?

Mr. LEVER. I think not. I do not think we can interfere with the States in the conduct of their business for intrastate commerce. If the bill undertakes to give that power, we might as well quit and——

Mr. MADDEN. The language of the section says "No person, firm, or corporation shall prepare, sell, barter, exchange, or ship or deliver for shipment as aforesaid any virus, serum, toxin, or analogous products manufactured within the United States for use in the treatment of domestic animals unless and until said virus, serum, toxin, or analogous products shall have been prepared under and in compliance with regulations prescribed by the Secretary of Agriculture at an establishment holding an unsuspended and unrevoked license, issued by the Secretary of Agriculture as hereinafter authorized."

Mr. LEVER. The language "hereinafter" relates to section 1 of the act, which fixes the kind of establishment that may be licensed at all, and only such establishments can be engaged in the manufacture and sale of these products as are for interstate commerce or foreign commerce. I yield to the gentleman from Iowa.

Mr. GREEN of Iowa. Does not the gentleman think it would be perfectly easy to prepare a bill which would cover all that is necessary for the purposes sought and still have one as to which there would be no doubt of its constitutionality? I see no reason why we should go into these doubtful questions at all, assuming them to be doubtful. I entirely agree with the gentleman from Illinois in what he said and would go a little further with my doubts than he did.

Mr. LEVER. Well, I did not go into the constitutionality of this proposition myself. I will say to the gentleman I referred this matter to a subcommittee, and I have great confidence in the legal judgment of that subcommittee, and also that of the Solicitor of the department, and, while I do not know, I have faith in the constitutionality of this proposition.

Now, just one other feature, gentlemen, and then I am through. The gentleman from Wisconsin [Mr. STAFFORD] complained somewhat earlier in the day that we placed an unusual burden upon the railroad companies in that we required them to have a certificate from the shipper that his product, being offered for shipment, had been manufactured under proper conditions. The answer to that is the suggestion of the gentleman from Indiana [Mr. Moss] in his statement. We are dealing with an extraordinary situation here. Hog cholera is a highly infectious disease. Hog-cholera virus and serum can carry even other diseases than hog cholera itself. It is supposed, I think, that the recent outbreak of the foot-and-mouth disease was caused from impure hog-cholera serum; that is, it had the foot-and-mouth disease germs in it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RUBEY. How much time is there remaining, Mr. Chairman?

The CHAIRMAN. Seventeen minutes.

Mr. RUBEY. I yield five minutes more to the gentleman.

Mr. ANDERSON. It is not an offense under this act to deliver to the common carrier any of this virus or serum without presenting a certificate. Now, how is the railroad company going to know, if a package is not labeled, and it is not required to be labeled, whether it contains this virus or not?

Mr. LEVER. The railroad company, I will say to my friend, must put itself on guard in a situation of this kind and see that it is not going to violate the law.

Mr. ANDERSON. What is the necessity for it?

Mr. LEVER. The necessity for it is that unless you throw around this the most stringent safeguards somebody, somehow, is going to get into interstate commerce shipments that are either impure or impotent, which would cause the loss suggested by the gentleman from Indiana [Mr. Moss] in his own district, or you are going to get impure stuff or contaminated stuff, which may cause another outbreak of the foot-and-mouth disease. So I feel that we can go rather far in restrictive measures on a proposition involving that great danger.

Mr. STAFFORD. Every container in interstate commerce must contain the name of the manufacturer, the date of manufacture of this serum, and, if some of the serum happens to get into interstate commerce that has not been manufactured in an establishment that has a permit, why can not the department

then ferret out the manufacture and punish him under the penal provisions of this statute?

Mr. LEVER. Well, we want every agent on his tiptoes to see that nothing impure, contaminated, or impotent is going to get into interstate commerce.

Mr. STAFFORD. Are you not going too far? Would you put an undue hardship on the carriers when it is not necessary? You are taking supervisory control over these establishments. You are giving the department full power to determine the character of the establishment or the conditions prevailing in the establishment; and if they do not conform to the requirements laid down by the Secretary of Agriculture the manufacturer goes out of business without any appeal whatsoever. His establishment is closed up. I do not recall an instance where such great powers are vested in the Secretary of Agriculture for the enforcement of this act if they do not conform to the requirements as laid down by him.

Mr. LEVER. The gentleman is taking all my time.

Mr. STAFFORD. I do not want to do it; but it is a serious question.

Mr. LEVER. It is a serious question. I called the gentleman's attention a moment ago to the fact that the Secretary is now given authority under the act relating to the matter of exportation of these animals to prohibit the clearance of a ship unless the ship is furnished with a certificate of the health of the animals. We are not doing any more in this bill for our domestic commerce and the protection of it than we are doing now in the protection of foreign commerce for foreign countries. In addition to that, in the act of 1903 for the prevention of the spread of contagious diseases of live stock, and other purposes, the Secretary of Agriculture may require, and does require, a certificate of freedom from disease of the individual before he can move his cattle or hogs across a State line, and, as well, requires the same certificate of a shipper. So that this is not an unprecedented proposition at all.

Mr. MADDEN. Will the gentleman yield?

Mr. LEVER. I yield.

Mr. MADDEN. The gentleman, I suppose, would be willing to concede that it would be easy to discover the disease in the animal before the shipment was made, and hence——

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. LEVER. I will answer that question under the five-minute rule.

Mr. MADDEN. Mr. Chairman, I ask recognition in my own time.

The CHAIRMAN. The time is within the control of the committee.

Mr. STEELE of Iowa. I yield five minutes to the gentleman from South Carolina.

Mr. MADDEN. Hence the transportation company will be able to obtain the information as to whether the disease existed in the animals or not, but it can be well conceived how impossible of ascertainment that information would be in the case of a sealed package, for example. What right would the shipping company have to open a sealed package and make a chemical analysis of it?

Mr. LEVER. It would not have that right at all. All they would have to do would be to demand of the shipper, if they had suspicion that this was a package of serum, a certificate that it had been put up under the rules and regulations promulgated under this act.

Mr. MADDEN. There would not be anything, then, to prove it was not contaminated in some way?

Mr. LEVER. That relieves him. All he has to do is to have a certificate.

Mr. MADDEN. The gentleman stated a few minutes ago that cases had been discovered where serum had been shipped and used, and that foot-and-mouth disease had resulted from the use of the serum which was intended for another purpose.

Mr. LEVER. But this certificate is an absolute protection to the shipper. He is not held guilty if he can show he has received a proper certificate from the shipper. That is really a protection to the carrier.

Mr. TILSON. Will the gentleman yield for one more question.

Mr. LEVER. Yes.

Mr. TILSON. That is in regard to section 13. What is the terrible evil anticipated here that has caused this penalty for bribery to be put in—the penalty of $5,000 fine or two years' imprisonment, or both? Is there any danger in particular that is imminent requiring such severe penalties?

Mr. LEVER. No; not that I know of, except that we are trying to throw all of the extraordinary precautions around the manufacture of this serum and this virus that it is possible for us to conceive, because of the highly infectious nature, not only of the disease itself and of the virus which we are putting into interstate commerce, but because of the fact that it may carry other highly infectious diseases. We are trying to go to the very limit of restrictions here in its use in commerce.

Mr. TILSON. It seems to imply a lack of confidence in the officers of the Department of Agriculture. In fact, the provision for such penalties as are here imposed is somewhat unusual, especially where Government officials are concerned.

Mr. LEVER. It is unusual because we are dealing here with an unusual situation all the way through.

Mr. HELGESEN. Mr. Chairman, will the gentleman yield?

Mr. LEVER. Yes.

Mr. HELGESEN. Is there not an important thing in regard to the carrier that is overlooked? That is the fact that the serum will be handled by the drug trade. Now, suppose in a general drug shipment there will be some serum included without a certificate as to the serum. In that case they would be held unless there is that certificate.

Mr. LEVER. Well, the railroad company must be on its guard about that. It is up to the railroad company to keep its own skirts clean.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RUBEY. Mr. Chairman, how much time is left upon the other side?

The CHAIRMAN. Three minutes remain to the gentleman from Minnesota [Mr. ANDERSON].

Mr. RUBEY. Mr. Chairman, I want to say that in the beginning, in 1913, when the first bill was prepared, it was prepared in the Agricultural Department. It was based upon the act which was passed by Congress in 1902, which related to the serum and virus that were used for the treatment of the human family. That act has been upon the statute book since 1902. The act of 1913 was founded upon that act and followed it almost word for word in its language; many of the provisions contained in the bill which we now have before us for consideration, and to which some objections have been made as to their constitutionality, are in the same language, almost word for word, as is employed in the Adamson Act which was passed a few days ago and which referred to the serums, toxins, and analogous products which are used for the treatment of the human family.

Now, there are many of us on the Committee on Agriculture who are not lawyers. We must depend upon others for our information as to the constitutionality of any given provision. The subcommittee which had charge of this bill had upon it one or two prominent attorneys, who went into that matter carefully. Not only that, but the Solicitor of the Department of Agriculture, who is an eminent lawyer, has given this bill his very careful consideration. He has had it under consideration a number of times. We have consulted him upon this proposition and upon that proposition, and he has given it as his opinion that there is no question in the world as to the constitutionality of this bill.

Now, further I can not say, because I am not a lawyer, and I do not know. But as a layman, and looking at it from my standpoint as a layman and comparing it with other measures that have been passed by this body, and whose constitutionality, it seems, has never been questioned, it does seem to me that this measure is constitutional.

Mr. SLOAN. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman yield?

Mr. RUBEY. Yes.

Mr. SLOAN. I would like to ask the gentleman whether he knows of any particular feature in this bill that is not embodied in the act of 1902 relating to toxins, serums, and so forth, used for the human family?

Mr. RUBEY. Well, there are some.

Mr. SLOAN. What are they?

Mr. RUBEY. There is one relating to the shipment and labeling, and some things of that sort.

Mr. SLOAN. Is it merely a matter of shipping?

Mr. RUBEY. The bill goes a little more into detail, and has in it some things that are not in the other bill.

Mr. SLOAN. I was directing my question to the purpose of simplifying the consideration, because I understood at the beginning that this bill as drafted intended to follow the act of 1902 relating to toxins, serums, drugs, and so forth, for use in the human family, and that it was not to seriously depart from that act.

Mr. RUBEY. I do not think there are any provisions in this bill whose constitutionality is questioned differing from the provisions of the other bill, except perhaps in one particular.

Mr. SLOAN. What was that?

Mr. RUBEY. I think it possibly related to the shipment. I am not sure.

Now, Mr. Chairman, I will ask for the reading of the bill under the five-minute rule.

The CHAIRMAN. The gentleman from Minnesota [Mr. ANDERSON] has three minutes. If he does not desire to use it, the Clerk will read the bill under the five-minute rule.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of Agriculture is authorized to issue licenses for the maintenance in the District of Columbia, the Territories, or any place under the exclusive jurisdiction of the United States, of establishments for the preparation of viruses, serums, toxins, or analogous products for use in the treatment of domestic animals and for the maintenance in any State of establishments for the preparation of such viruses, serums, toxins, or analogous products for shipment from such State to or through any other State, or to or through any Territory or the District of Columbia, or to or through any foreign country.

Mr. MOORE of Pennsylvania. Mr. Chairman, can the gentleman in charge of the bill state how many licenses are likely to be used under this paragraph?

The CHAIRMAN. For what purpose does the gentleman from Pennsylvania rise?

Mr. MOORE of Pennsylvania. To strike out the last word.

Mr. RUBEY. About 90 have been licensed under the old bill, and probably that many would be licensed under this act.

Mr. MOORE of Pennsylvania. Are they all manufacturers?

Mr. RUBEY. They are manufacturers, making this serum.

Mr. MOORE of Pennsylvania. Where are they located?

Mr. RUBEY. Principally in the live-stock centers—Kansas City, Omaha, Chicago, and other centers of that sort to which live stock is shipped, although there are serum plants in nearly every State.

Mr. MOORE of Pennsylvania. The terms are general here. They are made to apply only to the treatment of domestic animals. That might include cats and dogs as well as hogs and horses. I wanted to know if this would extend so far as to require a druggist dealing in these serums and toxins to take out a license?

Mr. RUBEY. Not unless he became a manufacturer.

Mr. MOORE of Pennsylvania. It might be that a druggist would prepare some of these things.

Mr. RUBEY. If a druggist prepared something and sold it as a serum, he would come under this act unquestionably. Instead of being a druggist, he would then become a manufacturer.

Mr. MOORE of Pennsylvania. "Analogous products" might be widely and liberally interpreted by a man who wanted to go into the business and did not come under the license contemplated in the law.

Mr. RUBEY. Under the act of 1913 we have had no trouble along that line.

Mr. MOORE of Pennsylvania. I mention it because in the antinarcotic law the effort was made to register everybody who dealt in the articles referred to, and there has been some complaint about the operation of that law.

The gentleman thinks it is entirely covered?

Mr. RUBEY. I think it is entirely covered.

Mr. MOORE of Pennsylvania. And it would not apply to druggists?

Mr. RUBEY. I think not at all.

Mr. SLOAN. It would apply to druggists if they dealt in interstate commerce.

Mr. RUBEY. If the druggist was a manufacturer of the article——

Mr. SLOAN. Or if he sold it in interstate commerce.

Mr. ANDERSON. If he delivered it for shipment in interstate commerce.

The Clerk read as follows:

SEC. 2. That it is hereby made unlawful for any person, firm, or corporation to prepare, sell, barter, or exchange in the District of Columbia or in the Territories, or in any place under the exclusive jurisdiction of the United States, or to ship or deliver for shipment from one State or Territory or the District of Columbia to or through any other State or Territory or the District of Columbia, or to or through any foreign country, any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product, for use in the treatment of domestic animals. No person, firm, or corporation shall prepare, sell, barter, exchange, or ship or deliver for shipment as aforesaid any virus, serum, toxin, or analogous product manufactured within the United States for use in the treatment of domestic animals unless and until said virus, serum, toxin, or analogous product shall have been prepared under and in compliance with regulations prescribed by the Secretary of Agriculture, at an establishment holding an unsuspended and unrevoked license issued by the Secretary of Agriculture, as hereinafter authorized.

Mr. ANDERSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON: On page 2, line 11, strike out all after the word "country," in line 11, and lines 12, 13, 14, and 15, including the word "aforesaid," in line 15.

Mr. ANDERSON. Mr. Chairman, the amendment which I offer is directed to the specific defect to which I called attention in the general debate. The section under consideration makes it an offense for anyone to sell, or to deliver for shipment in interstate and foreign commerce, any virus, serum, and so forth, which may be harmful, contaminated, or impotent, regardless of whether the article has been inspected and passed by the Department of Agriculture. As I stated before, it seems to me that when the article has been inspected and passed by the department, and so declared to be potent and free from contamination, it ought to be lawful to sell it anywhere, or to transport it anywhere in the United States.

I think the amendment also cures, in part at least, the defect to which the gentleman from Illinois [Mr. MANN] directed the attention of the committee, because it does limit the effect of the section to the sale of an article in the District of Columbia or in the Territories, or its delivery for shipment in interstate commerce, or its transportation in interstate commerce.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. ANDERSON. Yes.

Mr. GREEN of Iowa. In connection with the gentleman's remarks I should like to inquire a little further with reference to a matter stated in the report. The report states that the outbreak of foot-and-mouth disease was connected with or brought about by reason of infected virus.

Mr. ANDERSON. Yes.

Mr. GREEN of Iowa. But it does not state whether this virus was shipped in interstate commerce by reason of the insufficiency of the present statute, or by reason of the failure to inspect the virus, through the insufficiency of the present statute. Can the gentleman give me any information on that point?

Mr. ANDERSON. I can not. I can say this, however, that since that outbreak the department has adopted a very simple process or test, which enables it to eliminate the possibility of the presence of the germs of foot-and-mouth disease in the serum.

Mr. GREEN of Iowa. Then to go further, seeing that the gentlemen who have charge of the bill have not stated it, so far as I am aware, is the gentleman able to give the committee any reason for all this elaborate machinery that is provided for in this bill, for this repetition of penalties in various forms, for this effort, as the gentleman from South Carolina stated, to throw around the manufacture of this serum every possible restriction that could be thought of. Those may not be his exact words, but that is substantially the idea.

Mr. ANDERSON. The reason is this, that under the present law it is possible that contaminated serum might find its way into commerce, because the department does not have absolute control over the tests. Under the present law the department does not make the test, and it can not be absolutely certain that the processes of manufacture will be such that the tests applied will be sufficient and that the animals used will be of such a character as to make it certain that the product when the serum enters into commerce will be free from contamination and will be potent; but it is expected under this bill, under which the department does make the tests, that the department will be able to say absolutely that the product is potent and free from contamination.

Mr. GREEN of Iowa. The gentleman is coming to the point which I desire to reach. Would it not be sufficient to add to the present law a provision providing for this test, in addition to the provisions of the present law, which require the factories to be licensed and to be under the control of the Government?

Mr. ANDERSON. I do not think it would be sufficient simply to ingraft on the present law the requirement that the department shall make the test. I think it is absolutely essential that there should be some requirement that the manufacturers be licensed.

Mr. GREEN of Iowa. That is in the present law, is it not?

Mr. ANDERSON. Under the present law they are licensed, but the license does not give the department the control which it will have under the proposed legislation.

Mr. PARKER of New Jersey. May I be permitted to ask a question?

The CHAIRMAN. Does the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from New Jersey.

Mr. PARKER of New Jersey. Is there any reason why this provision as to viruses, serums, and analogous products might not be extended to all medicines, so as to have medicines manufactured only in establishments licensed by the Government?

Mr. ANDERSON. The gentleman is leading me to a field into which I do not want to go.

Mr. PARKER of New Jersey. The field is not led into by me. It is led into by the bill. I will ask the gentleman whether the bill does not necessarily constitute a serum trust?

Mr. ANDERSON. My answer to that is that I do not think so.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. ANDERSON. I should like to say just a word or two, but I will yield further.

Mr. MOORE of Pennsylvania. In line with the questions put by the gentleman from Iowa, does not the Secretary of Agriculture, in his letter dated June 7, answer as to why the Government does not enter upon these tests on its own account?

Mr. ANDERSON. The Government is entering on these tests on its own account through this bill.

Mr. MOORE of Pennsylvania. I will not take the time of the gentleman to read it, but on page 7 of the report will be found a statement by the Secretary of Agriculture saying that these test establishments should not be created, because of the expense.

Mr. ANDERSON. The gentleman has not been here during all the debate. If he had been he would have heard my statement that originally the Secretary recommended that test stations should be established, which would be under the full control of the Government, where samples of all the serums could be brought and tested, and the purity and potency of the serums definitely ascertained. In this bill it is provided that the tests may be conducted in the establishment where the products are manufactured, which was not at first proposed to be done.

Mr. MOORE of Pennsylvania. In the private establishment?

Mr. ANDERSON. Yes.

Mr. MOORE of Pennsylvania. In this letter of June 7, 1916, written by Secretary of Agriculture Houston, quoted on page 7 of the report, it is stated that—

> In view of these circumstances it is questionable whether the establishment of test stations at this time is advisable.

Mr. ANDERSON. I think the purpose is to make tests in the establishment, but not to establish an elaborate scheme of central test stations for the purpose of making the tests.

Mr. MOORE of Pennsylvania. Will the gentleman permit me to read two or three sentences from the Secretary's letter?

Mr. ANDERSON. I will.

Mr. MOORE of Pennsylvania (reading)—

> In contemplation of the authorization of Government test stations, as recommended in the report, the department made careful estimates of the cost of establishing and maintaining a sufficient number of them adequately to carry out the purposes intended to be effected. It was found that the expense would be very large. The initial appropriation needed, it was estimated, would be several hundred thousand dollars, which would have to be supplemented by a considerable annual appropriation.
>
> In view of these circumstances it is questionable whether the establishment of test stations at this time is advisable.

Mr. ANDERSON. That is what I said. It is a question of the establishment of test stations.

Mr. SMITH of Michigan. Will the gentleman yield for a question?

Mr. ANDERSON. Certainly.

Mr. SMITH of Michigan. Is it not true that the Government prepares some of these serums itself and has test stations?

Mr. ANDERSON. I think not; there are States that have commercial stations, but I think the Government has not.

Mr. SLOAN. The Government prepares some of this serum near Ames, Iowa, but not for commercial purposes.

Mr. RUBEY. Mr. Chairman, I hope that this amendment offered by the gentleman from Minnesota will not be agreed to. He proposes to strike out the words, in effect, "that no person, firm, or corporation shall prepare, sell, barter," and so forth. The very moment you allow the unrestricted sale of this serum you are taking away from the manufacturer the responsibility that should rest upon him. Whenever you have licensed a manufacturer all he has to do to get rid of responsibility under this amendment is to get it into somebody's hands who can sell it wherever he pleases and not be subject to the provisions of this act.

Mr. ANDERSON. Does the gentleman think it ought to be an offense for a man to sell an article which the Government that will prosecute him says is all right, potent and free from contamination? That is what this bill does.

Mr. RUBEY. The Government makes the test, but the article may go into the hands of unscrupulous purchasers who can sell where they please and not be subject to punishment under this act under the gentleman's amendment. The act of 1913 contains the identical language which this bill contains and which the gentleman wants to strike out. The act of 1902 contains in substance the same language that is in this act. There has been no criticism and no objection to those acts which contained this language.

Mr. MANN. Will the gentleman yield?

Mr. RUBEY. Yes.

Mr. MANN. If that bill the gentleman alludes to worked well, why do we need this bill?

Mr. RUBEY. Because we are giving additional authority to the Secretary of Agriculture for supervision at the factory.

Mr. MANN. That is the very thing. The bill to which the gentleman alludes has not worked well because it confines it practically to forbidding the sale of worthless serum. Here is a bill where you propose to make it work well by requiring that all shipments shall be tested before they go out of the manufacturer's establishment, and yet you say that no one shall sell worthless serum. What is the need of that? Are you going to put a man on notice when he buys a serum that is tested and approved by the Government that he is to make an examination of it and see whether it is worthless or not? If the inspector has not performed his duty, why should we hold the man who suffers from getting worthless serum criminally responsible?

Mr. RUBEY. My idea is that the moment you adopt this amendment you take away the responsibility of the manufacturer.

Mr. MANN. No; you put the responsibility on the manufacturer. You take it away from the dealer and make the manufacturer liable. Why should you hold the dealer responsible? The present theory of the law is to hold the dealer liable. That has not worked satisfactorily. You ought to let the dealer go free if he has a package tested and inspected by the Government. That is what you ought to do; but you still retain the provision against the dealer.

Mr. RUBEY. I think we ought to retain both and look after the dealer as well as the manufacturer.

Mr. MANN. Your bill does not even contain the provision which was put in the pure-food law, that the dealer can obtain a guaranty from the manufacturer and so trace it back. Here the dealer who takes the Government test and the Government certificate may be sent to jail because he believed the Government was attending to its duties. I do not think that is fair.

Mr. RUBEY. If an unscrupulous person gets hold of a serum that has been manufactured, he might dilute it or take the stamp off or counterfeit it, and you could not get at him in any way whatever.

Mr. MANN. That ought to be made an offense.

Mr. RUBEY. It will be an offense under this act.

Mr. MANN. Oh, not at all. It is no offense to do anything he pleases with it under this bill as it stands; otherwise it would be an offense to transport any serum in interstate commerce. We have no control over transportation in intrastate commerce. A man in Chicago who purchases this serum in Detroit can do what he pleases with it after it reaches Chicago. He can swindle all the people in the State of Illinois that he pleases and we could not reach him. That is the duty of the State of Illinois; but you undertake to punish the man who legitimately believes the Government has made a proper test.

Mr. GREEN of Iowa. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I differ with the gentleman from Missouri, who has charge of the bill. I think he has not examined carefully the distinction which has been drawn by the gentleman from Minnesota, or he would not say that the present law contains the same provision in the same language. It does contain the same words, but those words are all in one sentence, which contains the words "unless and until said virus, serum, toxin," and so forth, "shall have been prepared under and in compliance with the regulations," and so forth.

Now, in the present bill there is a period and a new sentence before these words that I have last read. They certainly apply only to the words contained in the particular sentence. They do not reach back and apply to the words which are sought to be modified by the gentleman from Minnesota, and I am quite sure that the department, or whoever drew the former bill, never intended that that portion should be an absolute and complete regulation in and by itself, but only as used in connection with the language found in the last part of the sentence in the present law; that is, unless and until such serum was prepared and in accordance with the directions and regulations prescribed by the Secretary of Agriculture. As long as these two parts are separated in the present bill it seems to me quite clear that the amendment offered by the gentleman from Minnesota ought to prevail.

Mr. MOSS. Mr. Chairman, this is simply a question of common honesty and nothing more. There are two parties to every commercial transaction—the producer and the consumer. I am now looking after the interest of the man who consumes the

virus and serum. The pertinent question is, Why should any man be permitted to sell worthless or contaminated virus or serum to the farmers of the United States?

Mr. SMITH of Michigan. Mr. Chairman, will the gentleman yield?

Mr. MOSS. Not just now. And then, when you remember that this virus is carrying the germs of the most deadly disease that can be contracted by hogs, the question becomes doubly important. One of two things ought to happen. Either it ought to be made impossible for a man to sell impure virus and impotent serum or else Congress should prohibit the manufacture and sale of it altogether; otherwise it is that the very dependence on the remedy which will spread the disease. There is no question about that. This law is based upon the theory that it is possible by test to determine whether the virus is pure, and whether the serum is potent. That being true, the man who manufactures it ought to have placed upon him the responsibility of making that test, and he should be permitted to sell only a product which is pure and potent. But here comes a proposition that because it is proposed to license the manufacture of serum and give the power of supervision to the Government, that this action shall relieve the manufacturer of what ought to be an inherent obligation to deliver only that product which he advertises for sale, and that the only protection the purchaser may have will come from the supervision exercised by the Federal Government.

Mr. ANDERSON. The manufacturer does not make the test under this law. The Government does.

Mr. MOSS. The manufacturer ought to be compelled to satisfy himself that his product is a standard one. And that will be the result if it is made a crime to sell worthless serums. But if we permit a manufacturer to sell any product he can by hook or crook get released from his factory by a Federal inspector we will place a premium upon dishonesty, or at least encourage the sale of a low-standard product.

Mr. ANDERSON. Does the gentleman think that a serum, passed by the Government and pronounced to be potent, should constitute a liability on the part of the person who sells it because some other scientist convinces the court that it is not potent?

Mr. MOSS. It is a sufficient reply to say that a serum which will not protect a man's hogs ought not to be sold, and it ought not to be possible to sell it legally under the law.

Mr. GREEN of Iowa. Can you get any better authority than the Department of Agriculture?

Mr. MOSS. Yes; hold the manufacturer to his proper responsibility, and then superimpose the supervision of the Department of Agriculture. This double protection is superior to either one alone. We are in the first stages of regulation. In 1913 it was supposed that the question of regulation was going to assure to the farmers of the United States that they could depend upon the serum that came from licensed manufacturers. It has been proven that they can not depend upon it. The manufacturer has not hesitated to cheat and defraud the purchaser by selling impotent serums.

Mr. REAVIS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. In a moment. The theory proposed is that we shall depend upon regulation alone rather than the responsibility that ought to rest upon every manufacturer in addition to regulation. I want them both held responsible—the manufacturer and the Department of Agriculture.

Mr. REAVIS. Under the terms of this bill the Government makes the test of the serum and certifies both as to its potency and the lack of contamination, does it not?

Mr. MOSS. It is given the power to make the test.

Mr. REAVIS. The duty is imposed upon the Government to do it, is it not?

Mr. MOSS. I would assume so; but that does not relieve the manufacturer of his responsibility—to sell the quality of serum which he advertises for sale. No manufacturer could sell worthless serums if he advertised them as such.

Mr. REAVIS. If you are going to prosecute a dealer for selling in interstate commerce this product which the Government has certified to be pure, are you not going to make him liable upon the prosecution of the United States for a mistake which the United States itself made?

Mr. MOSS. The theory of the gentleman will not hold, because if the Government of the United States has inspected it, and the serum itself is potent, the man can not be prosecuted, because it will comply with the law and with his proper obligation to his customer. But if the serum is impotent or the virus is impure, the manufacturer has no right to sell it even if it has been inspected and passed by the Government. The condition we wish to destroy is where impure virus and impotent serums are being sold to farmers for use in their herds. I do not care whether the fault lies with the United States Department of Agriculture in its inspection, or whether it lies in the manufacturer. If, as a matter of fact, worthless, impure serum is sold, the damage to the purchaser is just the same, and I do not care to make it possible for them to be sold and no man held responsible for it. That is the objection that I have to this amendment.

Mr. REAVIS. Mr. Chairman, if this bill contained no provision requiring the Government to inspect and certify as to the purity and potency of the serum, the position taken by the chairman of the subcommittee and the gentleman from Indiana [Mr. Moss] would be entirely justified, but the burden of determining the lack of contamination or potency of the serum is placed upon the Government itself. Notwithstanding the fact that the Government certifies the purity and potency of the serum, in the absence of the amendment of the gentleman from Minnesota, the dealer is to be prosecuted by the United States and severely punished because of a mistake which the United States itself committed. If this bill carried a provision that the serum should be inspected by the dealer before entering it for shipment in interstate commerce, I could readily understand why he should be subjected to prosecution for shipping either impotent or contaminated serum, but when not only the authority but the duty is imposed upon the Government of inspecting the serum, of certifying as to its potency, and the dealer is lulled into the security by the certificate which the Government itself issues, then, because the Government itself makes a mistake in its examination, you by this measure visit the evil of that mistake upon the man who is nowise responsible. The Government becomes a plaintiff in a criminal prosecution against an innocent party because of a mistake which the Government itself has made. I think the amendment ought to be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

The question was taken, and the Chairman announced the ayes appeared to have it.

Mr. RUBEY. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 35, noes 24.

So the amendment was agreed to.

Mr. TOWNER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 16, after the words "United States," insert the words "or imported therein."

Mr. RUBEY. Mr. Chairman, I would like to have that amendment again reported.

The CHAIRMAN. Without objection, the amendment will again be reported.

There was no objection.

The amendment was again reported.

Mr. TOWNER. Mr. Chairman, I call the attention of the gentleman who has this bill in charge to this fact which is the basis for this amendment. In line 16 the language is that the law shall apply to any serums, and so forth, manufactured within the United States. Now, if that shall be all, then all that will be necessary for any manufacturer of an impure or infected virus, if this bill passes, will be to move his establishment over to Mexico or the Canadian border and engage in the traffic there and ship the infected virus all over the United States.

Mr. RUBEY. We have a provision in this bill that applies to importations. We have a provision providing for the inspection of viruses and serums imported.

Mr. TOWNER. If that be the case that makes it doubly necessary to put that language in.

Mr. RUBEY. I do not see any particular objection to it.

Mr. LEVER. I call the gentleman's attention to line 10, page 4, section 5, prohibiting imports into the United States without a permit from the Secretary of Agriculture. I think that covers the gentleman's suggestion.

Mr. RUBEY. I did not understand the gentleman's amendment as at first reported. It would be impossible for us to go into a foreign country and inspect and license a manufactury in that country.

Mr. TOWNER. Even there you say it shall not be imported without a permit from the Secretary of Agriculture, and this is a provision by which somebody will make an investigation and examination.

Mr. RUBEY. I will say to the gentleman that there is very little importation of serums and practically no importation of hog cholera serum at all.

Mr. TOWNER. There might be a good deal if this bill passes. I will say to the gentleman, however, I do not desire

to insist upon that if the gentleman thinks that point has been entirely covered.

Mr. RUBEY. I do not think it will be practical for the Department of Agriculture to go into the inspection of factories in foreign countries. That could not be done.

Mr. SLOAN. Let me suggest that this serum is patented in Canada and other foreign countries.

Mr. RUBEY. All serum imported now under the provisions of this act are inspected and come in under a permit.

Mr. GREEN of Iowa. Section 5 provides for the inspection of the imported serum.

Mr. RUBEY. It does. I hope the amendment will not be agreed to and I hope the gentleman will not insist upon it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

Mr. TOWNER. Mr. Chairman, I desire to offer another amendment.

The CHAIRMAN. The Clerk will report it.

The Clerk read as follows:

Page 2, line 19, after the word "been" insert "examined by and approved, or."

Mr. TOWNER. Mr. Chairman, that amendment is simply introduced for this reason: The language of the section is that viruses must be prepared under and in compliance with regulations prescribed by the Secretary of Agriculture. Now, if you prepare it under regulations and in compliance with regulations prescribed by the Secretary of Agriculture, that would imply that the Secretary of Agriculture should have knowledge of the serum before it was prepared. It seems to me that it would be better and make the bill more efficacious if you should have it in the alternative; that is, that the examination might be made or that it might be prepared under the direction. I submit that for the consideration of the gentlemen having in charge the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 3. That the Secretary of Agriculture is hereby authorized to cause to be inspected and tested, under regulations prescribed by him, all such viruses, serums, toxins, or analogous products for use in the treatment of domestic animals, prepared or intended for sale, barter, exchange, or shipment as aforesaid by any establishment licensed under this act. If, as a result of such examination, inspection, or test, it shall appear that such virus, serum, toxin, or analogous product is worthless, contaminated, dangerous, or harmful, the same shall be destroyed by the owner or manufacturer thereof, or by any other person, firm, or corporation in possession of the same, in accordance with the regulations prescribed by the Secretary of Agriculture. It is hereby made unlawful for any person, firm, or corporation to sell, barter, exchange, or ship or deliver for shipment as aforesaid, or, otherwise than in compliance with the regulations prescribed by the Secretary of Agriculture, to remove from any establishment licensed under this act any virus, serum, toxin, or analogous product for use in the treatment of domestic animals which has not been examined, inspected, tested, and passed in compliance with the regulations prescribed by the Secretary of Agriculture.

Mr. HELGESEN. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 3, line 15, after the word "animals" insert the words, "and for transportation in interstate commerce."

Mr. HELGESEN. Mr. Chairman, I think we will all agree that we have no authority to interfere with intrastate manufacture or sale, and while it is true any court in reading this bill might come to a fair conclusion as to what was intended by the man who drafted it or by the men who enacted it into law, yet it seems to me that by the insertion of these words it would remove the necessity for any such interpretation and make the meaning absolutely fair, and I therefore hope the amendment will be adopted.

Mr. RUBEY. Mr. Chairman, I do not object to the amendment. I think possibly it might be better put in this way. In line 14, after the word "remove" insert the words "for interstate shipment" from any establishment, and so forth. Would not that meet the gentleman's viewpoint and put it in a better place in the bill?

Mr. HELGESEN. All right, I will accept that.

Mr. RUBEY. If the gentleman will withdraw his amendment I will offer it.

Mr. HELGESEN. I will accept that as a part of my amendment. Mr. Chairman, I ask unanimous consent to withdraw my amendment in order to accept the other.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. HELGESEN. I move to insert, after the word "remove," in line 14, the words "for interstate shipment."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 3, line 14, after the word "remove," insert the words "for interstate shipment."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 4. That no license shall be issued under the authority of this act to any establishment where viruses, serums, toxins, or analogous products are prepared for sale, barter, exchange, or shipment as aforesaid, except upon the conditions that the licensee will conduct the establishment and will permit the inspection of such establishment and of such products and their preparation, and the examination and testing of the same, and will furnish all necessary animals, materials, and facilities for making such inspections, examinations, and tests, in compliance with the regulations prescribed by the Secretary of Agriculture.

Mr. ANDERSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON: On page 4, at the end of line 5, strike out the period and insert the words "and will keep such records as may be required by him."

Mr. ANDERSON. Mr. Chairman, section 14 of this act authorizes the Secretary of Agriculture, by regulation, to prescribe the records to be kept and reports to be made by establishments licensed under the act. I suppose that authority is sufficient, but it seemed to me that it might be desirable to make the keeping of these records one of the conditions prescribed in section 4. And I therefore submit the amendment for what it may be worth.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. ANDERSON].

The amendment was agreed to.

The Clerk read as follows:

SEC. 6. That no carrier, or other person, firm, or corporation, shall transport or receive for transportation from one State or Territory or the District of Columbia to or through any other State or Territory or the District of Columbia, or to or through any foreign country, any virus, serum, toxin, or analogous product for use in the treatment of domestic animals, unless and until the shipper or his agent shall make and deliver to such carrier, or other person, firm, or corporation, a written certificate, in form prescribed by the Secretary of Agriculture, signed by the shipper thereof or the agent of such shipper, stating that the same has been prepared under and in compliance with the regulations prescribed by the Secretary of Agriculture at an establishment holding an unsuspended and unrevoked license issued by the Secretary of Agriculture under this act, or has been imported into the United States by an importer holding an unsuspended and unrevoked permit issued by the Secretary of Agriculture under this act, and stating the kind and amount of the product transported or offered for transportation, the license number of the establishment which prepared the same or the permit number of the importer who imported the same, that it is not at the time of shipment or delivery for shipment worthless, contaminated, dangerous, or harmful, and such other facts as the Secretary of Agriculture may require by regulations made pursuant to this act.

Mr. MANN. Mr. Chairman, I move to strike out the section, and I sincerely hope the gentleman will not ask to have the section remain in the bill. What is the situation? These viruses and serums are handled largely through drug stores, I take it. Is not that the case, may I ask the gentleman from Indiana [Mr. Moss], if he knows?

Mr. MOSS. I think, Mr. Chairman, that up to the present time they are sold almost entirely direct from the manufacturer to the consumer.

Mr. MANN. Well, I know that farmers in the part of the country with which I am familiar have been able to go to the drug store and get some of these viruses—the hog-cholera virus, and so forth. Now, there is no requirement in the bill that they shall be labeled. Here is a country drug store in a district where there is a threatened outbreak of cholera, or possibly an outbreak somewhere near there, and it is foolish to suppose that each one of the farmers would order a package of the virus from the manufacturer. The country drug store makes an order for drugs and not merely for viruses. They will be handled through the big drug-store manufacturing concerns, who are the manufacturers in the main. They are not labeled. When they are shipped they are not called viruses or serums, but called drugs.

Mr. RUBEY. Section 9, on page 7, says that containers of viruses, serums, toxins, or analogous products, and so forth, shall bear the name of the product.

Mr. MANN. Certainly. That is the container; that is the package the farmer receives.

Mr. RUBEY. The gentleman used the word "container."

Mr. MANN. I do not think I did. I said the package was not labeled, and it is not. The inside container is labeled, and properly, but when it is wrapped up the box is not labeled and the paper is not labeled. At least, there is no requirement that it be labeled; and it is shipped to the drug store and goes under the classification of drugs in the broad schedule, and it is called drugs. The railroad company does not know what it is. Even if it is shipped alone the railroad company will not know what it is. It may be 1 package in 50 small drug packages. The

railroad company has no knowledge of it. And yet gentlemen propose to put a knowledge on the railroad company, regardless of their knowledge, because the court has held that over these matters where we have the plenary power the man that does the act does it at his own risk, whether or not he knows anything about it. And, of course, if you said the railroad company had to know in order to be guilty, the provision would amount to nothing, because the railroad company would never know that a serum was contained in an article called drugs.

Now, there is no provision requiring the package to be labeled. We have a provision in reference to the transportation of explosives. There we required a package to be labeled. Now, it is sufficient to put the penalty against the shipper who violates the law by shipping. And it seems to me, with all due deference to the proposition in the bill, it is ridiculous to attempt to impose the penalty upon the carrier who does not and can not know what he is carrying, unless he is told by the shipper. Besides that, there is no occasion for this provision. It puts a burden upon everybody connected with the trade to have to file a certificate. Giving the license number and all information concerning it every time a shipment is made is unnecessary. You forbid any shipment, except it is made in a licensed establishment. That will prevent shipments in interstate trade of everything else except by people who want to defraud. They are reached otherwise. We have never carried in any of these bills relating to interstate commerce, for the purpose of controlling shipments from one State to another, penalties against a carrier who can not know what he is carrying, but we have directed the penalty against the consignor, who knows what he is shipping, or the consignee, who knows what he is receiving. They are the ones to be penalized.

Mr. TOWNER. Will the gentleman yield?

Mr. MANN. Yes.

Mr. TOWNER. I would like to ask the gentleman if this would not act as a preventive to the shipment of toxins through the United States mails, and hence make the carriers liable for the act?

Mr. MANN. It would make the Postmaster General and probably everybody else connected with the matter liable, because they could not comply with this provision. I do not know, but that might help some.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. RUBEY. Mr. Chairman, I hope the amendment offered by the gentleman from Illinois [Mr. MANN] will not be agreed to.

Mr. MANN. You had best get a quorum here, then.

Mr. RUBEY. Section 5 provides that the Secretary of Agriculture shall make the regulation and that no carrier shall receive this for shipment without a certificate. It is a requirement that is not drastic. The shipper goes to the railroad company. He has his package, he has his certificate, possibly pasted on the package. He delivers it to the carrier, and that is all there is to it.

Mr. HELGESEN. Will the gentleman yield?

Mr. RUBEY. Yes.

Mr. HELGESEN. If this section is to be retained, do you think it would be a wise thing to so amend it as to have viruses packed or boxed by themselves and so marked that the carrier could know what he was receiving?

Mr. RUBEY. I do not think there will be any question but that the Secretary of Agriculture, in the regulation he is authorized to make under this provision, will prescribe those regulations which will meet the gentleman's suggestions.

Mr. HELGESEN. That might be true.

Mr. RUBEY. And I want to say this: The drug stores of the country do not, as a rule, handle this serum.

Mr. HELGESEN. They have handled it.

Mr. RUBEY. There is very little of it handled through the drug stores. Practically all of the serum that is handled is handled through veterinarians, and they get their serums direct from the manufacturers.

Mr. HELGESEN. Well, they have not so received them heretofore, and there is no impossibility of joining with that package other packages.

Mr. RUBEY. But that would be an exception to the general rule.

Mr. HELGESEN. I know; but you must provide for exceptions to the general rule.

Mr. RUBEY. There is no question but that the packages of virus and serum will be marked, and this particular product will be wrapped separately and shipped as a separate package.

Mr. HELGESEN. I will call the gentleman's attention to the fact that there are many post offices located near the line between one State and another, and if a farmer in the country lives near the dividing line the rural carrier delivering that package would not know sometimes what he is carrying, and the package ought to be so plainly labeled that the rural carrier will know what he is carrying.

Mr. REAVIS. I would like to ask the gentleman in charge of the bill a question. Did I understand him to say that the druggists do not handle it?

Mr. RUBEY. They do handle some of it, but comparatively little.

Mr. REAVIS. Does not the gentleman know that in his country and in mine it is handled almost exclusively by druggists, and that they keep special refrigerators for the purpose of retaining the potency of the serum?

Mr. RUBEY. That is not my information as it comes to me from the department.

Mr. REAVIS. And is it sold in a container, usually of a pint in capacity?

Mr. RUBEY. I understand so.

Mr. REAVIS. Do I understand the gentleman to say that there is nothing in this bill that requires the contents of the package to be certified or denoted in some way on the outside of the package?

Mr. RUBEY. There is such a provision in section 9.

Mr. REAVIS. That is the container of the serum itself. But is there anything in the bill requiring that the statement of contents shall be placed on the outside of the package containing it if the serum or virus is packed along with other medicines in a common package?

Mr. RUBEY. That would come up under the regulations of the Department of Agriculture in regard to shipment.

The CHAIRMAN. The question is on agreeing to the motion to strike out section 6.

The question was taken, and the motion was agreed to.

The CHAIRMAN. Section 6 is stricken out. The Clerk will read.

The Clerk read as follows:

SEC. 9. That containers of viruses, serums, toxins, or analogous products for use in the treatment of domestic animals which are sold, bartered, exchanged, shipped, or delivered for shipment as aforesaid shall bear the name of the product, and such devices, marks, or labels for the identification and indication of potency of the same as may be prescribed by the Secretary of Agriculture, in form and manner as required by the regulations made pursuant to this act, and shall not bear, contain, or be accompanied by any statement, design, or representation which is false or misleading in any particular.

With a committee amendment, as follows:

Page 7, line 17, after the word "products," insert the words "its date of manufacture."

The CHAIRMAN. The question is on agreeing to the committee amendment.

Mr. MANN. Mr. Chairman, as to putting on the date of manufacture, as a matter of convenience are these viruses and serums manufactured from day to day?

Mr. RUBEY. Well, I judge they are manufactured in larger quantities than that would indicate. A certain amount of virus is manufactured at a time, and the date of manufacture will probably be every few weeks, possibly not every day, but every few days, or every week or two. I do not know as to that. I am just giving the gentleman my own idea, because I understand it is manufactured in large quantities, and the date on that quantity would be the same date, of course.

Mr. MANN. I take it that under the amendment the day of the month will have to be put on the label. Of course, that means it will have to be written on, not printed. You could not have a new label printed each day.

Mr. RUBEY. They manufacture about 80,000 cubic centimeters in each batch. How long that would last I do not know.

Mr. MANN. I did not know but that it would be practicable to put on the month of manufacture without undertaking to require that you must use a different kind of label or write the day different for each day of its manufacture. The labels in this case are manufactured by the millions and they are put on the packages by machinery. It becomes a very complicated proposition if any of the large drug manufacturing establishments is to be required to put on the label by hand and write the label by hand.

Mr. RUBEY. My understanding is that if they were to put on it the month it would be sufficiently accurate. I think that is a very wise suggestion that the gentleman makes. This is a committee amendment and I offered it here on the part of the committee.

Mr. MANN. I should think the Secretary of Agriculture would have authority under the regulations to require this.

Mr. RUBEY. I suppose so.

Mr. MANN. If we are to put this into the law, so far as I know, by using the word "date" you would have to put the day and the month.

Mr. STAFFORD. Usually when the dates are stamped on these labels they are either perforated or stamped with a rubber stamp. Nearly all the establishments have a rubber stamp for the day on which the business is current.

Mr. RUBEY. I do not think there would be any objection to putting on the label the month of manufacture.

Mr. LEVER. Would that be satisfactory to the gentleman from Illinois?

Mr. RUBEY. The month of manufacture?

Mr. MANN. Yes.

Mr. RUBEY. We want to put on the label the approximate date of manufacture so that anyone who buys it will have some notice of its age.

Mr. HELGESEN. The approximate date of manufacture is a mighty important thing, because if it gets into the trade—and it is handled by the drug trade—it may be potent when the druggist receives it, and he may hold it for five or six years, when it will be no good. I think both the month and the year ought to be included.

Mr. MANN. Of course it ought to cover the month and the year. I think the month carries with it the year.

Mr. RUBEY. Mr. Chairman, I ask unanimous consent to withdraw the first amendment and offer the following.

The CHAIRMAN. Without objection, the committee amendment is disagreed to.

There was no objection.

The CHAIRMAN. The gentleman from Missouri [Mr. RUBEY] offers a new amendment, which the Clerk will report.

Mr. RUBEY. Insert in line 17, page 7, after the word "products," a comma and the words "the month and year of manufacture."

The Clerk read as follows:

Amend, on page 7, line 17, by inserting, after the word "products," "the month and year of manufacture."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. ANDERSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Minnesota [Mr. ANDERSON] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. ANDERSON: On page 7, at the end of line 23, add the following:

"The Secretary of Agriculture shall also cause to be affixed to said containers a device, mark, label, or certificate indicating that the contents thereof have been inspected and passed by him before the same are removed from the place where prepared."

Mr. ANDERSON. It seems to me the purpose of this amendment ought to appeal to the committee——

Mr. RUBEY. I will accept the amendment offered by the gentleman.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 13. That any person, firm, or corporation, or any agent or employee thereof, who shall pay or offer, directly or indirectly, to any officer or employee of the Department of Agriculture, or of the United States, authorized to perform any of the duties prescribed by this act, or by the regulations made hereunder, any money or thing of value, with intent to influence such officer or employee in the discharge of any duty herein provided for, or which may be provided for by the regulations prescribed hereunder, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not more than $5,000, or by imprisonment for not more than two years, or by both; and any officer or employee of the Department of Agriculture, or of the United States, authorized to perform any of the duties prescribed by this act or the regulations made hereunder, who shall accept any money, gift, or thing of value from any person, firm, or corporation, or any officer, employee, or agent thereof, given with the intent to influence his official action, shall be deemed guilty of a felony, and shall, upon conviction thereof, be summarily discharged from his office or employment and shall be punished by a fine of not more than $5,000, or by imprisonment for not more than two years, or by both.

Mr. KING. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Illinois offers an amendment which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. KING: Amend section 13, in line 21, page 9, by adding after the words "official action," the following, to wit: "or shall own, either directly or indirectly, any stock or financial interest in any establishment or establishments sought to be licensed and regulated by this act."

Mr. KING. I understand the committee make no objection to the amendment.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 14. That the Secretary of Agriculture shall make and promulgate, from time to time, such regulations as may be necessary to carry out the provisions of this act, including regulations to prevent the preparation, sale, barter, exchange, shipment, transportation, importation, or exportation, in violation of this act, of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals, and regulations prescribing the records to be kept and reports to be made by establishments licensed under this act and by importers holding permits issued under this act. All such regulations shall have the force of law.

Mr. MANN. Mr. Chairman, I move to strike out the words in lines 11 and 12, page 10, "All such regulations shall have the force of law."

The CHAIRMAN. The gentleman from Illinois offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 10, lines 11 and 12, strike out the words "All such regulations shall have the force of law."

Mr. RUBEY. I accept the amendment. I think it is a very good one.

The amendment was agreed to.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. This paragraph and others in the bill relate to the jurisdiction of the Secretary of Agriculture over imports and exports. That may trench somewhat upon the authority of another committee, and it may also interfere to a certain extent with what are known as Treasury regulations. May I ask whether the committee has considered this phase of the question, and whether it is complying with precedents in giving authority over imports and exports to the Secretary of Agriculture?

Mr. RUBEY. The Committee on Agriculture have taken jurisdiction of these matters in the past. It is a question of jurisdiction. When a bill is referred to a committee that committee has jurisdiction over it.

Mr. MOORE of Pennsylvania. To what extent are these serums and antitoxins imported?

Mr. RUBEY. A very small quantity of serums are imported.

Mr. MOORE of Pennsylvania. So far as imported serums, and so forth, are concerned, what are they used for in this country?

Mr. RUBEY. They import some serums for particular diseases of animals, such as, possibly, the blackleg, the serum for lockjaw, and things of that sort.

Mr. KING. Hydrophobia.

Mr. MOORE of Pennsylvania. In the event of some unusual discovery, or some scientific development on the other side, there might be any reason for admitting foreign serums, I was wondering whether——

Mr. RUBEY. They will be admitted, under the provisions of this bill.

Mr. MOORE of Pennsylvania. Have they any advantage over us now in foreign countries in this matter?

Mr. RUBEY. I do not think so. Only a very limited amount of serum is imported into this country. Practically all the serum used in this country is manufactured here.

Mr. MOORE of Pennsylvania. Is the gentleman familiar with the tariff on these manufactured serums?

Mr. RUBEY. I have not looked up that matter.

Mr. MOORE of Pennsylvania. Is it customary to give the Secretary of any department except the Treasury Department jurisdiction over exports and imports? The Secretary of the Treasury has charge of the customhouses.

Mr. MANN. If the gentleman will permit my butting in, I think everything of this sort in recent years has probably followed the provisions of the pure-food law, which I drafted. In working out the subject with the Department of Agriculture and the Secretary of the Treasury, or the officials in the Treasury Department who deal with the customs, under that law, under the pure-seed law, and under the law now in force on this subject, whenever anything of the sort is imported it is shown in the manifest. The customs officials turn over a specimen to the officials of the Department of Agriculture. Pending examination the shipments are held in warehouses or elsewhere, and when the Department of Agriculture certifies to the quality and purity of the articles, which certificates give them admission, they are admitted. If there are customs dues to be paid, they are paid. If the Secretary of Agriculture declares that they are impure, or that under the law, so far as he is concerned, they are of such quality that they are not subject to be imported, they are returned to the importer and required to be destroyed or sent abroad, unless the articles are such as can be cleaned or brought up to standard quality in this country. So these regulations have been worked out with the Treasury Department, and I may say to the gentleman that when the pure-food bill came up I consulted with the very distinguished gentlemen then constituting the Ways and Means Committee, whose antagonistic efforts I did not court, and having consulted with them, they did

not oppose what we put in the pure-food law, it having met their approval in advance.

Mr. MOORE of Pennsylvania. I assume if there was a duty on any of these imports the Secretary of the Treasury would collect them. Of course that would not be the duty of the Secretary of Agriculture.

Mr. MANN. The Secretary of Agriculture has no control over the importations except to examine them and report upon the quality of the articles.

Mr. MOORE of Pennsylvania. May I ask the gentleman from Illinois, who is the author of the pure-food law, a very excellent law and which is constantly quoted and doing great service throughout the country, whether in his bill appears language such as appears on line 6, section 5?—

SEC. 5. That the Secretary of Agriculture is authorized to issue permits for the importation into the United States of viruses, serums, toxins, or analogous products, for use in the treatment of domestic animals, which are not worthless, contaminated, dangerous, or harmful.

That would appear to be an invitation on the part of the Government, through the Secretary of Agriculture, for people to hunt these things up and bring them into the United States.

Mr. MANN. Of course there is no such provision in the pure-food law. This contemplates that there may be an inspector for the Government of the United States in Canada or in Mexico, and it might be an inspection of some new virus, perhaps some new virus in European countries. That is evidently what it contemplates.

Mr. MOORE of Pennsylvania. It reads as if the Secretary was to invite people to make these importations. I am satisfied with the statement that has been made by the gentleman on the question, but I want in my time to further inquire whether the committee insists on retaining the language found on page 7, line 3:

Pending investigation, a license or permit may be suspended temporarily by the Secretary of Agriculture, without affording the permittee or licensee an opportunity for a hearing.

I intended to raise this question when the paragraph was read, but I was called to the telephone at the time.

Mr. RUBEY. I want to say to the gentleman that it may become necessary to act under that provision.

Mr. MOORE of Pennsylvania. It is a very unusual provision, to take away one's rights without giving him an opportunity to be heard.

Mr. RUBEY. It is only on extreme occasions when that provision will be taken advantage of, but it may be very desirable and necessary to do it. When we passed the grain-standard act we gave the Secretary of Agriculture authority to appoint grain inspectors, and we gave him the authority also to discharge them on certain conditions, and to do so without a hearing.

Mr. MOORE of Pennsylvania. May I ask the gentleman this—I know the gentleman is trying to do the right thing, whether we agree on his bill or not? Suppose a large establishment manufacturing virus, and so forth, with large overhead charges and many men employed, should be complained against by some individual a thousand miles off, who insisted that the particular virus he had received from this manufacturer was impure, and a hostile Secretary of Agriculture should suddenly and without notice and without an opportunity for hearing recall that license and thus throw the establishment out of business. Does not the gentleman think that is giving the Secretary a great deal of latitude?

Mr. RUBEY. The gentleman from Pennsylvania is stating an extreme case. I do not think any Secretary of Agriculture would do a thing of that kind on the statement of a man a thousand miles away. I know that the Secretary of Agriculture could be depended upon to do the right thing. He is not going to suspend a license upon somebody's mere statement.

Mr. MOORE of Pennsylvania. I might have the same feeling, but the gentleman is an experienced legislator, and I question whether he wants to give arbitrary power to a Secretary to deprive a man of the right of hearing.

Mr. LEVER. There might be this situation. An establishment might find itself with a lot of contaminated stuff on its hands and desire surreptitiously to get rid of it. If the Secretary of Agriculture should find it out, he could suspend the license; but it is an extreme case. I think the Secretary ought to have the power temporarily to suspend the license.

Mr. MOORE of Pennsylvania. In that event the man should be arrested at once, and then he could have a hearing.

Mr. LEVER. We provide that the license shall not be taken away until after a hearing except in this extreme case.

Mr. MOORE of Pennsylvania. Is there any other act that the gentleman can mention where a license may be taken away from a man without giving him a hearing?

Mr. LEVER. Yes; in the grain-standard act.

Mr. KING. Mr. Chairman, for the purpose of getting as much light as possible, I want to state an incident where this section would be of very great benefit. In 1915 in a certain location in my district the foot-and-mouth disease broke out again. It was suspected that the serum manufactured by the Chicago Serum Co. contained the foot-and-mouth germs. It was not known, and it became necessary for the Secretary of Agriculture to investigate and to suspend the further sale of the serum until the investigation was made. Now these serum manufactories are not large institutions, as some gentlemen think. They are small, and a good many are located in the stockyards district in the city of Chicago.

Mr. MOORE of Pennsylvania. Will the gentleman yield for a question?

Mr. KING. Yes.

Mr. MOORE of Pennsylvania. Suppose it should happen in a case of that kind that it was not the serum of the Chicago company, but some substitute serum, would it not be unfortunate to have the Secretary of Agriculture stop the Chicago company by suspending the license?

Mr. KING. But would it not be better to stop the company than it would to spread the foot-and-mouth disease?

Mr. MOORE of Pennsylvania. I think the man complained against should be made to explain. May I ask the gentleman if they use a serum in the foot-and-mouth disease?

Mr. KING. Oh, no; I did not so state.

Mr. BORLAND. Mr. Chairman, I want to say to my friend from Pennsylvania [Mr. MOORE] that he has probably had no personal familiarity with hog-serum business.

Mr. MOORE of Pennsylvania. I have heard a great deal about it since I came to Congress.

Mr. BORLAND. His knowledge is theoretical and the objection that he raises is theoretical. There is no practical difficulty that will occur under the provision that the committee has put in the bill. The gentleman from Illinois [Mr. KING] has stated a case which would be proper for the exercise of this power in the Secretary of Agriculture to suspend the issuance of a license or to revoke a license where a contagious disease is epidemic and is prevalent, and it may become material to immediately stop the shipment of the serum. That has occurred in every big stock center in the country in recent years. It is a measure of safety not only to the agricultural interests, but to all men engaged in the serum business.

Mr. MOORE of Pennsylvania. Would not the Secretary of Agriculture have the power to do that thing in the way of stopping shipments? My point is you are stopping the business at the source by revoking the license; you are putting him to the tremendous inconvenience and expense without a chance to be heard as to whether he is responsible or not. I approve that the Secretary should have the right to stop shipments if bad serum is going to any locality; the shipments should be stopped immediately. I contend the Secretary has that power now, but to say that the Secretary shall immediately upon notice of this kind withdraw a man's permit, and thus close his establishment, would be working an unnecessary and a dangerous hardship.

Mr. BORLAND. That is the practical method of getting at it, and I want to say to the gentleman that it does not destroy his stock on hand.

Mr. MOORE of Pennsylvania. It costs the man a good deal if he employs a hundred hands, more or less, to shut down——

Mr. BORLAND. If the gentleman will listen to me and quit theorizing, I will explain that there is nothing to it. It is being done right along, and has been done ever since the serum business was put under the Government control. The serum is kept at a certain temperature in vaults under the earth. It does not deteriorate, but the order stops the man from shipping a serum into interstate commerce until the question of the danger is determined. The loss to him in the temporary stoppage of a shipment is so much smaller than the possible risk to others by his shipping the serum that there is no question at all in the choice. The Government must make the choice of either permitting him, pending the hearing, to continue what might be widespread danger or of stopping him temporarily. Speaking about a hostile Secretary of Agriculture, the Secretary of Agriculture would never be in a position where he would want to stop the supply of serum that was going to the farmers unless there was absolute necessity for it. It would not be a question of arbitrary action on his part, but it would be a question of the protection of the agricultural interests.

Mr. MOORE of Pennsylvania. I hope the gentleman is right as to the Secretary of Agriculture. I have no criticism to make as to any individual, but I will ask the gentleman now whether revocation of the permit, as is proposed here, without hearing, would not completely stop the entire business of the permittee?

Mr. BORLAND. Yes; but that has occurred before.

Mr. MOORE of Pennsylvania. Would it not go far beyond the purpose the gentleman has in mind, which is the stopping of a shipment?

Mr. BORLAND. No.

Mr. MOORE of Pennsylvania. That may cause much trouble and loss.

Mr. BORLAND. The gentleman is not correct about that. I have had before the Department of Agriculture a half dozen or more cases in my own State where permits had been withdrawn from companies manufacturing serum, and some of them proved to be cases where the permits could be safely issued, and after a hearing were safely issued; but pending the investigation of the matter the safety lies in the withdrawal of the permit.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

The Clerk read as follows:

SEC. 15. That so much of this act as authorizes the making of regulations by the Secretary of Agriculture shall be effective immediately; all other parts of this act shall become and be effective on and after January 1, 1917.

Mr. RUBEY. Mr. Chairman, I move to amend by striking out the word "January," in line 16, page 10, and inserting in lieu thereof the word "July."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 10, line 16, strike out the word "January" and insert the word "July."

The Chairman. The question is on agreeing to the amendment.

Mr. MANN. Mr. Chairman, this bill if it becomes a law at all at this session will probably not receive the approval of the President prior to the 4th of March. Of course, most of these provisions are now the law.

Mr. RUBEY. A great many of them.

Mr. MANN. Will there be sufficient time between March 4 and July 1 in which to comply with the provisions of the law?

Mr. RUBEY. I think so.

Mr. MANN. Of course the Secretary will have to make regulations. My observation has been, where, before an act can go into effect, regulations have to be made by the department, that it generally takes several months to do it. They can not make regulations without giving notice—that is, they will not, and having hearings—and after they have had hearings they very often make some foolish provisions because of lack of knowledge. If the gentleman is satisfied that four months' time is sufficient, I have nothing against it.

Mr. RUBEY. The department itself thinks that they can get everything ready by the 1st of July and put the act into effect without any trouble at all.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 16. That so much of an act entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914," approved March 4, 1913 (37 Stats. L., pp 832, 833), as relates to the preparation, sale, barter, exchange, shipment, or importation of viruses, serums, toxins, or analogous products for use in the treatment of domestic animals is hereby repealed, effective on and after the 1st day of January, 1917.

Mr. RUBEY. Mr. Chairman, I move to amend, on page 11, line 3, by striking out "January" and inserting "July."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 11, line 3, strike out the word "January" and insert the word "July."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 17. That all moneys appropriated for carrying out the provisions of so much of said act approved March 4, 1913, as relates to the preparation, sale, barter, exchange, shipment, or importation of viruses, serums, toxins, or analogous products for use in the treatment of domestic animals, which shall remain unexpended on the 1st day of January, 1917, are hereby made available for carrying out the provisions of this act.

Mr. RUBEY. Mr. Chairman, I move to amend, on page 11, line 10, by striking out the word "January" and inserting the word "July."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 11, line 10, strike out the word "January" and insert the word "July."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. Will the gentleman from Missouri indicate how much money there is unexpended under the act of March 4, 1913, that will be available for the purposes of this act?

Mr. RUBEY. There will not be any unexpended by the 1st of July, but the new appropriation for 1918 will be available on July 1.

Mr. MOORE of Pennsylvania. What is the gentleman's estimate of the amount that will then be available?

Mr. RUBEY. There is nothing asked for in this bill. The Agricultural appropriation carries an item of $172,240 for carrying into effect the act of 1913, and that amount is made available for this act if it should be passed and become a law.

Mr. MOORE of Pennsylvania. Can the gentleman say how many new employees will be employed to carry this into effect?

Mr. RUBEY. They have in the neighborhood of 60 inspectors now, and this act will probably require 15 or 20 more.

Mr. MOORE of Pennsylvania. What will be the entire cost of the operation of the act? Has that been estimated?

Mr. RUBEY. There will be no additional sum needed to that carried in the Agricultural appropriation bill—$172,240.

Mr. MOORE of Pennsylvania. How will these employees be employed?

Mr. RUBEY. They will be appointed, as they are now, under civil-service regulations, by the Secretary of Agriculture.

Mr. MOORE of Pennsylvania. There is no special provision in this bill that they shall come in under the civil-service law?

Mr. RUBEY. They are now appointed under the civil service, and the additional ones will be appointed in the same manner.

Mr. MOORE of Pennsylvania. The Secretary of Agriculture stated in his letter that it would cost several hundred thousand dollars to establish test stations for serum if the Government were to undertake to do this test work on its own account. Has that been taken into account in the estimate for carrying out this bill?

Mr. RUBEY. That is one reason why this plan has been selected. Another is that the department has discovered a method by which they are able to get rid of any contamination from any disease contained in the serum. By applying the heat tests to it they can kill the germs of the foot-and-mouth disease or any other disease contained in the serum without in any way affecting the serum itself.

Mr. MOORE of Pennsylvania. The Government itself is not actually going into the manufacture of viruses and serums?

Mr. RUBEY. It is not.

Mr. MOORE of Pennsylvania. It is not going into the business of establishing such stations?

Mr. RUBEY. It is not.

Mr. MOORE of Pennsylvania. But it is applying a new force to the investigation of serum and virus factories by sending its agents and inspectors into those factories for the purpose of making tests?

Mr. RUBEY. These tests will be made at the expense of the factory itself under the supervision of the Government.

Mr. MOORE of Pennsylvania. And this plan is cheaper for the Government?

Mr. RUBEY. Very much cheaper.

Mr. SMITH of Michigan. I would like to inquire whether there has been a virus found that will control or cure or prevent the foot-and-mouth disease?

Mr. RUBEY. No; I think not.

Mr. SMITH of Michigan. A good deal has been said about the use of virus for that purpose.

[Mr. SLOAN addressed the committee. See Appendix.]

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk concluded the reading of the bill.

Mr. RUBEY. Mr. Chairman, I move that the committee do now rise and report the bill to the House with amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RAKER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 15914) to authorize the Secretary of Agriculture to license establishments for and to regulate the preparation of viruses, serums, toxins, and analogous products for use in the treatment of domestic animals, and for other purposes, and had directed him to report the same to the House with certain amendments, with the

recommendation that the amendments be agreed to, and that the bill as amended do pass.

Mr. RUBEY. Mr. Speaker, I move the previous question on the bill and all amendments thereto to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? [After a pause.] If not, the Chair will put them in gross.

The question was taken, and the amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. RUBEY, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. STEELE of Iowa. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Iowa asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

ENROLLED JOINT RESOLUTIONS SIGNED.

The SPEAKER announced his signature to enrolled joint resolutions of the following titles:

S. J. Res. 190. Joint resolution to continue and extend the time for making report of the joint subcommittee appointed under a joint resolution entitled "Joint resolution creating a joint subcommittee from the membership of the Senate Committee on Interstate Commerce and the House Committee on Interstate and Foreign Commerce to investigate the conditions relating to interstate and foreign commerce, and the necessity of further legislation relating thereto, and defining the powers and duties of such subcommittee," approved July 20, 1916, and providing for the filling of vacancies in said subcommittee; and

S. J. Res. 187. Joint resolution providing for the filling of a vacancy in the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress.

COMMITTEE ON ACCOUNTS AD INTERIM.

The SPEAKER. The law requires the Speaker to appoint a temporary Committee on Accounts that will take charge of accounts after the Congress will have adjourned, and there are so many things in the rush of the last day or two of a session that it is likely to be forgotten. Therefore the Chair names the following committee now, to serve until the next Congress meets and to begin its duties on the 4th day of March next: Mr. PARK, Mr. JOHNSON of Kentucky, and Mr. SANFORD.

VETERINARY INSPECTORS AND LAY INSPECTORS.

The SPEAKER. The Clerk will call the committees.

Mr. LEVER. Mr. Speaker, I yield to the gentleman from Kansas [Mr. DOOLITTLE] to call up a bill by the direction of the Committee on Agriculture.

Mr. DOOLITTLE. Mr. Speaker, by direction of the Committee on Agriculture I call up the bill H. R. 16060.

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 16060) providing for the classification of salaries of veterinary inspectors and lay inspectors (grades 1 and 2) employed in the Bureau of Animal Industry, Department of Agriculture.

The SPEAKER. This bill is on the Union Calendar, and the House automatically resolves itself into the Committee of the Whole House on the state of the Union.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 16060, with Mr. ALLEN in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 16060, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 16060) providing for the classification of salaries of veterinary inspectors and lay inspectors (grades 1 and 2) employed in the Bureau of Animal Industry, Department of Agriculture.

Mr. DOOLITTLE. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

Mr. COX. Mr. Chairman, I think the bill ought to be read.

The CHAIRMAN. Objection is heard, and the Clerk will proceed with the reading of the bill.

The Clerk read as follows:

Be it enacted, etc., That from and after July 1, 1916, the Secretary of Agriculture shall classify the salaries of veterinary inspectors and lay inspectors (grades 1 and 2) as hereinafter provided.

SEC. 2. That the entrance salary of all veterinary inspectors within the classified service and actually employed as such in the Bureau of Animal Industry of the Department of Agriculture shall be $1,400 per annum; those of said veterinary inspectors who on and after the date of July 1, 1916, may be receiving a salary less than $2,400 per annum shall thereafter from said date receive an annual increase of $100 until their minimum salaries shall amount to $2,400 per annum; all other promotions or increases in salaries shall be made at the discretion of the Secretary of Agriculture.

SEC. 3. That the entrance salary of all lay inspectors (grade 2) within the classified service and actually employed as such in the Bureau of Animal Industry of the Department of Agriculture shall be $1,000 per annum; those of said lay inspectors (grade 2) who, on and after the date of July 1, 1916, may be receiving a salary less than $1,800 per annum, shall thereafter from said date receive an annual increase of $100 until their minimum salaries shall amount to $1,800 per annum; all other promotions or increases in salaries shall be made at the discretion of the Secretary of Agriculture.

SEC. 4. That the entrance salary of all lay inspectors (grade 1) within the classified service and actually employed as such in the Bureau of Animal Industry of the Department of Agriculture shall be $840 per annum; those of said lay inspectors (grade 1) who on and after the date of July 1, 1916, may be receiving a salary less than $1,600 per annum shall thereafter from said date receive an annual increase of $100 until their salaries shall amount to $1,540 per annum, and after an additional year's satisfactory service their minimum salaries shall be increased to $1,600 per annum; all other promotions or increases in salaries shall be made at the discretion of the Secretary of Agriculture.

SEC. 5. That no promotion shall be made except upon evidence satisfactory to the Secretary of Agriculture of the efficiency and faithfulness of the employee during the preceding year.

SEC. 6. That there shall be appropriated annually in the Agricultural appropriation bill such additional sums to the $3,000,000 annual appropriation, provided for in the act approved June 30, 1906, found in the Thirty-fourth Federal Statutes, page 674, as may be necessary to carry into effect the provisions of this act.

SEC. 7. That all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed: *Provided, however,* That nothing in this act shall be construed to repeal any part of the meat-inspection law contained in the act of June 30, 1906 (34 Stat. L., p. 674), entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907," and in the act of March 4, 1907 (34 Stat. L., p. 1260), entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1908."

Mr. DOOLITTLE. Mr. Chairman, the chief purpose of the bill is to standardize the salaries of the veterinary inspectors and lay inspectors, grades 1 and 2, by providing a new form of compensation and a definite scale of promotion.

The Civil Service Commission and the Department of Agriculture announced to all who proposed to enter into this newly created branch of the service as veterinary inspectors with the entrance salary of $1,400, that promotion to $1,600 would be made after two years' satisfactory service, with promotion to $1,800 after satisfactory service for two years at $1,600 per annum. The above schedule was announced by the United States Civil Service Commission in several publications.

The first announcement of the salary schedule for inspector's assistants (now included in the group of employees designated as lay inspectors, grade 1) was contained in the notice issued by the Civil Service Commission for examination to be held on September 5, 1907 (Notice Form No. 1248), which stated the entrance salary as $840 per annum, promotion to $1,000 per annum to be made after three years' satisfactory service at $840, promotion to $1,200 to be made after three years' satisfactory service at $1,000.

The committee recognizes that the announcements of the Civil Service Commission are not binding on Congress, and these announcements are cited here only for the purpose of setting forth the circumstances.

The following public announcements regarding this matter were made by Dr. A. D. Melvin, Chief of the United States Bureau of Animal Industry:

[Service Announcements, No. 26, June 15, 1909, p. 50.]

PROMOTIONS DELAYED FOR LACK OF FUNDS.

On account of a considerable increase in the cost of inspection, due to the constantly increasing number of establishments under Federal inspection without a corresponding increase in the funds appropriated for carrying on the work, the bureau now finds it impossible to adhere to the schedule of promotions which have in the past been announced in connection with the positions of veterinary inspector, stock examiner, and inspector's assistant. As a result a number of employees have unfortunately failed to receive the promotions which they expected and which the bureau fully intended to make as planned. Nevertheless the bureau wishes to assure all faithful employees that their work is appreciated and that their cases will be considered just as rapidly as possible.

In view of this notice inquiries on this subject from bureau employees are being filed without reply.

Two similar announcements were later made.

At this point I desire to state briefly what each section of the bill provides for and is intended for. Section 1 prescribes the short title of the act. Section 2 specifies the salary schedule for veterinary inspectors as follows: The entrance salary shall be $1,400 per annum, and there will be promotions of $100 per annum until the salary of $2,400 per annum is attained.

The Civil Service Manual for the spring of 1916 contains the following statement on this question regarding the requirement and qualifications of these inspectors:

The applicant must show that he has graduated from a veterinary college of recognized standing or that he is a senior student in such an institution and expects to graduate within six months from the date of the examination.

The Civil Service Commission also announces the age limit as from 21 to 41 years. Beginning in the year 1917, the Civil Service Commission will require that all applicants for the position of veterinary inspector must be graduates of a school

with a course of four years, leading to a degree in veterinary medicine. In view of this fact, it is evident that the Bureau of Animal Industry will find it difficult to attract capable veterinarians to the service in the absence of an equitable salary schedule being established.

The new Army bill gives to the Army veterinarians rank and commissions up to major with pay and allowance of such office. The maximum pay of a major is $4,000 per annum. Hence the Army veterinarians will be advanced to $4,000, with quarters, fuel, and light free. It would appear that the salary provided for in this bill for veterinarians—$2,400—is reasonable, especially so since the veterinarians provided for in this bill do not have quarters, fuel, and light furnished free, as do the Army veterinarians.

Now, section 3 provides that the salary schedule for lay inspectors, grade 2, shall be as follows: Entrance salary, $1,000 per annum, with promotions of $100 per annum until a salary of $1,800 is attained. These of grade 2 are simply those lay inspectors who have been advanced by promotion from grade 1. Originally they were denominated differently. Grade 1 includes all skilled laborers who under the law formerly were called "taggers"; also inspectors' assistants, from $840 per annum to $1,100 per annum. All meat inspectors at $1,000, $1,100, $1,200, $1,320, $1,380, and $1,400 are designated as lay inspectors. They are of grade 2. Vessel inspectors at $1,200 to $1,600 per annum are designated as lay inspectors, and they are designated as of grade 2. All stock examiners, at $1,000, $1,100, $1,140, and $1,200 are now designated as lay inspectors of grade 2. All field stock examiners at $1,200 were designated as lay inspectors of grade 2. All meat inspectors at $1,500 were designated as lay inspectors of grade 2. That shows the dividing line between grade 1 and grade 2, as practiced now in the Department of Agriculture in the Bureau of Animal Industry.

Mr. COX. Mr. Chairman, would it disturb the gentleman's statement to ask him a question at this point?

The CHAIRMAN. Does the gentleman yield?

Mr. DOOLITTLE. I should prefer not to yield until I have finished this statement.

As I said, section 3 provides a salary schedule for lay inspectors, grade 2, as follows: Entrance salary, $1,000 per annum, and promotions of $100 per annum until a salary of $1,800 is attained. Those who entered this grade through examinations for the position of meat inspector held from March 6, 1908, to March 3, 1913, were required to have not less than five years' experience in curing, packing, or canning meats, and by reason of their experience in the canning room, dry-salt or sweet-pickle cellars, sausage, lard, oleo, butterine, or beef-extract departments, were competent to inspect meats and meat food products as to their soundness, healthfulness, and fitness for food. Grade 2 includes meat inspectors, stock examiners, field stock examiners, and vessel inspectors, and so forth, as I have previously stated, within the salary limit stated by me.

Section 4 of the bill specifies a salary schedule as follows for lay inspectors, grade 1: Entrance salary, $840 per annum; promotions of $100 per annum until a salary of $1,540 is attained, with promotion to $1,600 after an additional year's satisfactory service.

Now, the duties of this position are to assist both veterinary inspectors and lay inspectors of grade 2 at slaughterhouses and packing establishments in connection with their duties as inspectors of meat and meat-food products. Appointment in grade 2 positions will be made by promotion from grade 1. At least three years' experience in handling live meat-producing animals is a prerequisite for consideration for this position. Experience in handling meat alone will not be considered sufficient. Applicants must have reached their twentieth but not their thirty-fifth birthday on the date of the examination by the Civil Service Commission.

Section 5 provides that promotion shall be upon record of efficiency and faithfulness.

Section 6 provides that, in addition to the permanent annual appropriation of $3,000,000, there shall be appropriated annually sufficient sums to carry this bill into effect. It is estimated that the additional appropriation for the first year would be $309,420.

The author of this bill, the gentleman from Nebraska [Mr. LOBECK], is ill at a hospital recovering from a surgical operation, and I am not authorized to speak for him, but I feel safe in saying that he will favor an amendment to the bill providing that the recent 5 per cent and 10 per cent increase in salary and wages granted to the Department of Agriculture employees in the Agriculture appropriation bill passed last Monday shall not apply to veterinary inspectors and lay inspectors under this bill where this bill increases the 5 per cent or 10 per cent, as the case may be.

It is not possible to secure, so we are informed by the Bureau of Animal Industry, an estimate as to how much the additional amount for increased salary as provided by this bill will be in the years after the first year, because they say they have no way of telling how many there will be who will be entitled to advancement, or who will be advanced or promoted. The figures are based on the number of employees in the service June 1, 1916, that will be affected by the bill.

Mr. Chairman, will the Chair notify me when I have consumed 15 minutes?

The CHAIRMAN. Yes.

Mr. COX. This only takes care of the inspectors in the Bureau of Animal Industry?

Mr. DOOLITTLE. Yes; veterinary inspectors and lay inspectors.

Mr. COX. They are meat inspectors at the various slaughterhouses in the United States?

Mr. DOOLITTLE. They have a variety of work to perform.

Mr. WM. ELZA WILLIAMS. They include the live-stock inspectors, do they not?

Mr. DOOLITTLE. Yes. Among the duties to which the employees provided for in this bill may be assigned are the following: Meat inspection; tuberculin testing of cattle; control and eradication of hog cholera; eradication of dourine; interstate inspection of cattle and horses; eradication of glanders, sheep scab, cattle scab, horse mange, and Texas-fever ticks; handling of southern cattle outside of quarantine area; execution and administration of the 28-hour law; eradication of foot-and-mouth disease; inspection relative to existence of contagious diseases; supervision of import and export animals (quarantine of import animals and tuberculin testing of export animals); scientific investigations of animal diseases; control of importations and manufacture of viruses and serums, toxins, and other analogous products.

Mr. COX. Is it the same class of men who were accused of letting the foot-and-mouth disease get away from them about two years ago?

Mr. DOOLITTLE. I think some such charge was made that some inspector did not properly diagnose the disease.

Mr. COX. Which section of the bill applies to that class of inspectors that did let the foot-and-mouth disease get beyond their control?

Mr. DOOLITTLE. Section 2.

Mr. COX. That is the high-priced fellows, the $2,400 men; that is the class of men that was accused of letting the foot-and-mouth disease get beyond their control?

Mr. DOOLITTLE. I have heard it said that one individual let it get beyond his control; he was probably included in this class.

Mr. SABATH. There would be more efficiency, would there not, if this bill went into effect?

Mr. DOOLITTLE. It should tend to more efficiency.

Mr. COX. I want to call the gentleman's attention to the closing language in sections 2, 3, and 4—

All other promotions or increases in salaries shall be made at the discretion of the Secretary of Agriculture.

That is very plain and very satisfactory to me, but in that connection I want to call attention to section 5, where it says—

That no promotion shall be made except upon evidence satisfactory to the Secretary of Agriculture of the efficiency and faithfulness of the employee during the preceding year.

Now, the language used in sections 2, 3, and 4 gives the Secretary of Agriculture discretionary power to increase salaries of all other employees, and section 5 requires him to be supplied with evidence before he can increase any salary.

Mr. DOOLITTLE. The Secretary of Agriculture would make a promotion if the evidence satisfied him however he might obtain it.

Mr. COX. Yes; then what is the necessity of carrying section 5 in the bill if you prohibit him from using discretion except upon evidence?

Mr. BORLAND. The reason is to prevent the promotions becoming automatic without regard to the record of the man who is performing the labor. Section 3 provides for annual promotions.

Mr. COX. Sections 2, 3, and 4 provide for automatic increases, but section 5 gives the power to the Secretary of Agriculture to increase only upon evidence.

Mr. BORLAND. The automatic salaries are in figures.

Mr. COX. Yes; fixed by figures; but the power it gives to the Secretary of Agriculture to increase salaries is not fixed in figures.

Mr. BORLAND. No. Sections 2, 3, and 4 fix the maximum salaries at $1,600, $1,800, and $2,400. Above that the Secre-

tary of Agriculture can make promotions in accordance with provisions in section 5.

Mr. COX. I want to get the gentleman's interpretation of section 5, which is to this effect: That the Secretary of Agriculture would still have the power to present the automatic promotions even though sections 2, 3, and 4 were enacted into law.

Mr. BORLAND. I think that was brought out at the hearings.

Mr. DOOLITTLE. I think the gentleman from Missouri has correctly interpreted the language.

Mr. COX. If these promotions are automatic, can the Secretary of Agriculture prevent it except by discharging the employee?

Mr. DOOLITTLE. He can, if the record is not efficient.

Mr. COX. It will finally depend on what view the Secretary of Agriculture may take of it?

Mr. BORLAND. No; I do not think it gives the Secretary an arbitrary power.

Mr. WM. ELZA WILLIAMS. Will the gentleman yield?

Mr. DOOLITTLE. Certainly.

Mr. WM. ELZA WILLIAMS. I do not quite understand this provision along the line of what the gentleman from Indiana has been inquiring about. Section 4 has this language:

All other proportions or increases in salaries shall be made at the discretion of the Secretary of Agriculture.

It is first provided for the increase which it would appear was automatic, and that all other promotions shall be made at the discretion of the Secretary. Now, section 5 provides that no appointment shall be made except on evidence satisfactory to the Secretary of Agriculture. Does not there appear a conflict between those two provisions?

Mr. DOOLITTLE. No; I think the gentleman from Missouri [Mr. BORLAND] has explained that. The gentleman will notice that the language of the bill is that the employee shall receive an annual increase of $100 until the salary shall amount to $2,400 per annum. Now, when they attempt to advance above the salary of $2,400 it can only be made at the discretion of the Secretary of Agriculture.

Mr. WM. ELZA WILLIAMS. Do I understand that the language at the close of section 4 only applies to increases in excess of the maximum amount in the preceding sections?

Mr. DOOLITTLE. The way the bill reads their minimum salary shall eventually amount to $2,400.

Mr. WM. ELZA WILLIAMS. This speaks of lay inspectors of class 1 and 2. What is the distinction between the two classes?

Mr. DOOLITTLE. I gave the duties of these two grades of inspectors a moment ago. No. 2 grade is a sort of graduation from No. 1.

Mr. WM. ELZA WILLIAMS. Do the three classes here mentioned include all of the inspectors and examiners employed in the Union Stock Yards in Chicago?

Mr. DOOLITTLE. That is my understanding.

Mr. WM. ELZA WILLIAMS. Those who attend the scales and inspect the live stock as well as the meat inspectors?

Mr. DOOLITTLE. That includes everything.

Mr. WM. ELZA WILLIAMS. And they are all entitled to an increase under the operation of this bill if they are entitled on their merit to such increase in the discretion of the Secretary?

Mr. DOOLITTLE. That is right. I now yield 10 minutes to the gentleman from Missouri [Mr. BORLAND].

Mr. BORLAND. Mr. Chairman, I want to explain to the House briefly the present status of this meat-inspection service. Back in 1906 a great excitement broke out in this country about the wholesomeness of meat and the sanitary slaughtering of animals. It resulted in the passage through this House of the first post-mortem meat-inspection bill. Prior to that time we had had an ante-mortem inspection of cattle, an inspection on the hoof. That still continues, with some enlargement. This provided for an inspection of the carcass in the establishments from which the meat or its products were to be shipped in interstate commerce. A permanent annual appropriation of $3,000,000 accompanied that law, which still exists, but the service has grown beyond the $3,000,000 annual appropriation and now there is a $300,000 appropriation added in the Agricultural appropriation bill. Of course, when the service first began it was wholly experimental. Nobody knew exactly what inspection was needed or what force was needed or what classification of employees, or even what their qualifications ought to be. But now the service is no longer experimental. It has become a fixed part of the Government service, so fixed that I take it that nobody would favor or even suggest the repeal of the meat-inspection law. Every family in the United States now relies with certainty upon the rigid enforcement of that law, and the food products branded, inspected, and passed by the United States inspection service are found in every grocery store and market in the land. It includes the packed products as well as the fresh products.

There are, roughly speaking, two classes in this service. The veterinarians, who are scientific experts, graduates of veterinary schools, and the meat inspectors, who are the graduates of the school of experience, who are experienced meat inspectors. There are two classes of them. This bill further classifies the lay inspectors into grades 1 and 2. Grade 1 is what we used to call taggers. They are the skilled laboring men who are qualifying themselves by experience to be promoted to grade 2. Grade 2 may have been promoted from grade 1, but not necessarily so, because grade 2 was frequently made up of men who have been foremen for many years of large departments in the packing houses. The service gets the experienced men if possible.

The time has come when in justice to the service and in justice to the men and for the efficient carrying on of the business it is necessary they should be classified and a maximum and a minimum salary provided for them, a species of promotion for long service and good record. That is the primary purpose of this bill. This work, while it is centralized probably into some 40 or 50 or 75 packing centers in the country—it is not centered in a half dozen but something less than a hundred—involves 90 per cent, I will undertake to say, of the packed products and possibly 65 to 75 per cent of the fresh products of meat on the American table. It is almost universal in its operation, even though it is local in its work. The slaughtering is done in the great packing houses, beginning at an early hour after midnight, when there is a heavy run of stock, sometimes as early as 2 o'clock in the morning. The meat inspector must be on hand, because the minute the animal is slaughtered in the pit and the chain is put around his leg and he is hoisted to the conveying attachment, the meat inspector is there to inspect the animal. He takes out the viscera, begins to inspect them, the heart, the lungs, the liver, and so on, and he must do that rapidly and accurately. Very little leeway or indulgence is granted him in making a mistake. If he passes an infected part and some other man catches it and a report is made, after three such reports have been made the man is discharged. It is the most rigid, I think, of all the service of the United States in discharging men upon three complaints for inefficiency or lack of attention to their duties. As I say, these men work in the cold and wet, in the packing houses, and they work long hours, sometimes 4 or 5 hours on a stretch and sometimes 10 or 11.

The carcass passes from that across the table where every portion must be inspected. If there is a doubtful case it must go to a place at the upper end of the packing house where the chief inspectors, with an expert inspector in charge, are and is passed on as an appeal case. If the carcass is condemned it goes into a vat where a fluid is put in rendering it unwholesome for food and it is reduced to fertilizer or soap grease later. It is absolutely destroyed. A man who is inspector on the job can not leave until the steam is turned over and every condemned carcass is destroyed and made impossible for use for human food, so that his hours are sometimes long, dependent upon the run of stock. That is the class of work to be done. The scientific work of the veterinarians embraces not only live-stock inspection, spoken of here this afternoon, in the prevention of epidemics, but the inspection of carcasses, all parts, as they go through the operations of the packing house. Then comes the meat inspector who inspects the curing of hams and sides of bacon. These men can take a side of bacon out of the brine by sticking a knife or fork or pronged instrument into it and they can draw it across their noses and tell you whether that bacon is going to cure within a certain number of hours and be cured in a wholesome way so as to be preserved. They are experts. They inspect sausage, various canned products, corned beef, and so on. They can tell whether that has been properly cured and their judgment will be demonstrated. Gentlemen, if you take any canned goods and put it away for 2 weeks or 30 days you will find the can they condemned will spoil and the can they told you was good will not spoil. So their judgment is always subject to the practical test of accuracy. I just wanted to give an idea of the work that is being done by these men to show whether these salaries which are no higher in range than the ordinary clerical salary in the District of Columbia, are clear out of proportion on account of the work these men are performing. In my judgment they are not. In my judgment they are quite moderate and will not attract more than the necessary ability that the American people can rely on for this very important service. We could

not very well pay less for such a class of men provided in this bill. We tried to fix the lowest price to get the right kind of men, not to pay the highest price for their services.

Mr. SABATH. May I ask the gentleman a question?

Mr. BORLAND. I will yield to the gentleman.

Mr. SABATH. Is it not a fact 638 men resigned from their positions on account of the hardships they were obliged to endure and the exacting conditions demanded of them, over 20 per cent, last year, and is it not very hard for the department to secure efficient men for this service?

Mr. BORLAND. The gentleman is right about it. The veterinary inspector who is able to do this work is such a clear-headed, quick-witted, and skilled man that he can frequently obtain work elsewhere, especially in these times, and a man who is able to do this meat inspecting is able to secure a position as foreman or a department head, especially in the large packing houses, and they frequently go away from our service to establishments elsewhere. That has frequently been the case.

Mr. KING. Will the gentleman give us some information as to the duties of the inspection of the animals on foot?

Mr. BORLAND. As to the inspector of the animals on foot, when the live stock comes in and are driven into the pen the inspector inspects them for signs of lumpy jaw, tuberculosis, and scabies. If it is the case of a hog he picks out the hog that has a high temperature, which is liable to have hog cholera, and segregates it, and then he passes on the other stock.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BORLAND. I desire two minutes; I want to close this debate.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. BORLAND. He segregates them to see that he does not do any injustice to any man. After it has been examined and condemned it goes to the packing house, and if after post-mortem examination it appears to be diseased in any particular and unfit for human food the owner is paid on the basis of soap grease. If it proves good for human food, then he is paid on the basis of such.

Mr. KING. The gentleman has mentioned a number of diseases. What does he do when making an inspection for foot-and-mouth disease?

Mr. BORLAND. I could not tell you how they arrive at the inspection for foot-and-mouth disease. They usually quarantine a suspected case and watch it. I do not think they can classify or diagnose a case of foot-and-mouth disease by an instant inspection like they can lumpy jaw and some of these other common diseases. But I know about hog cholera. They can tell in 24 hours, because the temperature of the hog may be due to the fact that he is excited from his shipment over the country, and his temperature may be high because of that, and if you give him a chance to cool and rest, his temperature may drop to normal. Then he has not the hog cholera.

Mr. KING. Can you not tell it by the "smacking" of the animal?

Mr. BORLAND. I think so. The foot-and-mouth disease is not so prevalent that we are familiar with it there in the stockyards. Where a case occurs they instantly bring the experts to examine it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COX. Mr. Chairman, it shall not be my purpose to detain the committee the full hour in opposition to this bill. In my opinion, the bill has not a single leg on which to stand. It is wholly and totally void of all merit, if not of all decency, for many reasons, a few of which I shall endeavor to call to the attention of this committee.

The bill is entitled "Providing for the classification of salaries of veterinary inspectors and lay inspectors (grades 1 and 2) employed in the Bureau of Animal Industry, Department of Agriculture." In the very first place the bill is erroneously entitled. It should be entitled by its true and proper name, and that is "A raid upon the Treasury of the United States, backed by and supported by a salary grab to the extent of $309,000." That should be the title to this bill, because that is all there is in it, and that is all that is intended to be in it. There is no intention in this bill whatever to better the service. There is no intention in this bill to make the inspection more rigid and severe in their inspections. There is no intention in this bill whatever to detect frauds about to be perpetrated upon the people of the United States merely by and through an increase of salary of these employees.

Mr. YOUNG of Texas. Will the gentleman yield?

Mr. COX. For a question.

Mr. YOUNG of Texas. You speak of the increase of the salaries to the extent of $309,000. That is for the first year.

Mr. COX. That is true.

Mr. YOUNG of Texas. The gentleman loses sight of the fact that the increases go from year to year to the extent of $100 a year.

Mr. COX. That is true. I want to compliment the committee on reporting this bill out for getting away from the ground on which increase of salaries heretofore has been bottomed. Since Congress met we have been continually besieged to increase salaries because of the enormous increase in the cost of living, as urged by those favoring wholesale increase of salaries. That is the ground upon which all these increases have been sought which have gone on the various appropriation bills. I sincerely desire to compliment the committee in reporting this bill in getting away from that threadbare, worn-out argument. This committee seeks to justify the report on this bill not upon the increased cost of living, but because they say that this class of employee was misled by some kind or some sort of a statement given out by the Civil Service Commission some five or six years ago.

If the Civil Service Commission made any mistake or erroneously let a report go out which misled this class of employees, why, of course, Congress is not bound by that, and the committee concedes that Congress is not bound by such a statement made by the Civil Service Commission. But that is the ground, and it is the sole and only ground, on which this increase of salaries is sought to be bottomed, namely, because the Civil Service Commission made some sort or some kind of a promise some five or six years ago that if men would enter this kind and character of service they would start at a salary of $1,400 a year, with an increase of $100 per year thereafter until their minimum salary reached $2,400.

I want to call this committee's attention to the fact that this week, when the Agricultural appropriation bill passed this House, it increased the salary of these men from 5 to 10 per cent. I want to call this committee's attention to the fact—and if I am wrong I ask to be corrected by some member of the Agricultural Committee, who knows whether I am right or wrong about it—I want to call this committee's attention to the fact that within the last three or four years Congress increased the salary of this same class of men by increasing the appropriation, as I recall now, $250,000. Now, here is that increase of salary three or four years ago. I do not know just what it amounted to when it was spread out over the salaries of these men.

Mr. DOOLITTLE. Will the gentleman yield?

Mr. COX. I will.

Mr. DOOLITTLE. I simply wish to inform the gentleman that those increases did not go in this increase of salary. The money was spent for other purposes.

Mr. COX. I recall distinctly that I reserved a point of order upon the increase of salaries, and my good and genial friend, for whom I have the profoundest respect, the gentleman from South Carolina [Mr. LEVER] begged me out of it, and I finally let it go in. When that amount was spread out to all of these employees, I do not know how much it increased their salaries; but this much I do know, and this much every member of this committee knows, that this week we put a provision upon the Agricultural appropriation bill increasing their salaries from 5 to 10 per cent, which means an additional increase of salaries of $900,000 per year, if it becomes a law, and I hope before it becomes a law that some way, somewhere, it will be defeated and this amount saved to the taxpayers of the Nation.

Mr. WM. ELZA WILLIAMS. Will the gentleman yield just there?

Mr. COX. For a question.

Mr. WM. ELZA WILLIAMS. Is not this a fact, that the increases heretofore have been extended to only the veterinarians and that the grades 1 and 2 of lay inspectors had not received any increase, and that amongst the lay inspectors are men, from practical experience, the most efficient in the service?

Mr. COX. I do not know about that; but if that be true, the inspectors are getting a lion's share of this proposed increase in this bill, because they are the ones who get an annual increase of $100 per year from $1,400 per year until they reach a maximum salary of $2,400.

Mr. HEFLIN. Mr. Chairman, will the gentleman yield for a question?

Mr. COX. Yes; I will yield for a question.

Mr. HEFLIN. The gentleman suggests that a provision for raising these salaries already had gone into another bill for an increase of 5 to 10 per cent.

Mr. COX. Yes.

Mr. HEFLIN. I want to call the gentleman's attention to the fact that at the time this bill was reported there was no provision for an increase in the salaries of these men, but the bill

that passed through the House this week does provide an increase of 5 to 10 per cent. I gather from the gentleman's argument that he thinks that that is a sufficient raise and that this is not necessary?

Mr. COX. I opposed the other increase as well as this. I think that neither of them should have been passed. I quite agree with the gentleman that when this bill was reported on the 8th day of June last the increase of 5 to 10 per cent we passed here the other day had not become a law; this high cost of living cry had not been invoked so strongly as it now is. I am not sure but if my genial friend from Kansas had to write this report again, he would bottom it upon the old stock argument of the increased cost of living. But at the time he prepared this report that argument was not as strong, as forceful, or as powerful as it is to-day.

Now, this bill takes care of 1,250 veterinary inspectors, 1,100 lay inspectors of grade 2, and 800 lay inspectors of grade 1, a total of 3,150 inspectors. Let me call the attention of this committee to a fact, and I ask you to seriously consider it, and that is this: If you pass this law, you are going to practically disorganize the entire force of the Department of Agriculture. Why? Because you are providing by this bill for the automatic promotion of these 3,100 men. You are making of these 3,100 men a favored class, the only class in all the fifteen or twenty thousand employees in the Department of Agriculture that will be given the right to an automatic increase in their salaries. And just as certain as you pass this bill, just so certain the day will come when you will have to classify all the other employees of these various bureaus down there, and automatically promote them and increase their salaries. If you are ready to pay the bill, all right. I am not.

Mr. BORLAND. Mr. Chairman, will the gentleman yield?

Mr. COX. I yield for a question.

Mr. BORLAND. The gentleman is a member of the Committee on the Post Office and Post Roads, and he knows that that is the rule in the Post Office Department.

Mr. COX. That was put in long before I came here. I never would have stood for it if I had been here.

Mr. BORLAND. The work requires experience. Experience is needed for a man to do that work in the Post Office Department.

Mr. COX. Oh, Mr. Chairman, it does not require much experience for a man simply to carry mail on his back in the various cities. That rule of promotion is wrong and never can be defended upon any ground whatever.

This bill has been floating around here for a number of years. I do not know just how long it has been around here. I recall that six years ago, I think it was, I was made chairman of the Committee on Expenditures in the Treasury Department, and for the life of me I am trying to find out how it got out of my committee. But it never got out of my committee when I was chairman of it. I was besieged practically from every source and corner of the United States to report this bill, but it never got out of there. And I have been besieged, as I am sure every other Member has been, from the four corners of the United States to support this bill, but I am not going to do it. Men in my own district, scores of men in my own State, have written me to support this bill. Our great State of Indiana last winter had the nerve and the temerity to ask me to support it. Well, we paid the penalty of it in Indiana in the last campaign for the increase of State salaries during the eight years we were in control there, and I am not going to pay the penalty any more if I can avoid it.

Now consider this section 2, gentlemen of the committee. That does not even provide for a maximum salary. This bill is cunningly prepared. A skillful draftsman wrote it, a man who knew what he was saying to catch Congress, like the man's coon dog—coming and going. They incorporate in it only the minimum salary. That is to be $2,400 a year for an inspector, and they incorporate in it another provision which will give to the Secretary of Agriculture power to increase the salary of inspectors beyond $2,400 a year, if the interpretation of sections 2, 3, and 4, as interpreted by the gentleman from Missouri [Mr. BORLAND] is correct, and I presume it is. Why was this language incorporated in this bill, "That all promotions or increases in salaries shall be made at the discretion of the Secretary of Agriculture"? They are automatically increased to $2,400 a year. That, then, becomes the minimum salary, and from that time on the Secretary of Agriculture is given the discretion, upon evidence presented to him, to increase the salary beyond $2,400 per year.

My Democratic friends, are you willing to pay the penalty? Are you willing to go upon record, in view of the fact of our platform at Baltimore in 1912, criticizing our Republican friends for the creation of new offices and the increase of salaries, and so forth? If you are, you are going to get a chance for a direct yea-and-nay vote on it. You can vote it. I refuse to do it.

Mr. WM. ELZA WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. COX. I yield for a question.

Mr. WM. ELZA WILLIAMS. I want to hear the gentleman's view as to what effect both of these bills will have, the 5 to 10 per cent increase and this bill; whether they will conflict, or whether both increases will be allowed and accumulate?

Mr. COX. I think it would be a cumulative increase. I do not think there will be any question about the increases being cumulative. The 5 to 10 per cent will be added to the salaries of these employees, and if that does not bring them up to sections 2, 3, and 4 in this bill, then, of course, they will go on to the salaries fixed in these three sections.

Section 3 undertakes to take care of the lay inspectors of grade 2. It starts these gentlemen upon a salary of $1,000 per annum, increasing at the rate of $100 per year until a maximum salary is reached at $1,800. What is the reason for it? Has any friend of this bill yet got upon the floor and undertaken to explain to the committee that the increase of salary to the men occupying that grade would give any better service? Oh, no. Has any friend of this bill undertaken to say that if section 3 is agreed to, that meat would be any purer, that it would be any better inspected than it is? Oh, no. My friend from Missouri laments about the hardship that these employees undergo, the long length of hours they are required to work, the dangerous work in which they are engaged, and things like that. My friend from Illinois [Mr. SABATH] laments seriously, because, as he says, 638 of them resigned some time ago. If the statement made by the gentleman from Illinois [Mr. KING] is correct—and I listened attentively to him last year—he successfully established the fact, from which there has been no appeal, that these inspectors in the city of Chicago were directly responsible for letting the foot-and-mouth disease get from under their control. I do not recall that any man at that time or since has taken the floor of the House and undertaken to defend them against that charge. If that charge is true, then, although there have 638 resigned, not enough of them have resigned yet. [Laughter.]

Mr. RAINEY. Will the gentleman yield?

Mr. COX. Yes.

Mr. RAINEY. I want to call the gentleman's attention to the fact that if 638 did resign, their places were immediately filled, and 30 or 40 more appointed.

Mr. COX. That is correct; there is no question about that.

Mr. RAINEY. The report that they make shows it.

Mr. COX. There is no trouble and no difficulty in filling these places at the salaries they are now drawing. I undertake to say that if you consult the civil-service eligible list, you will find 100 on the waiting list anxious and ready to take these positions at the present salaries.

Mr. SABATH. There is only this difference: That those that resigned are experienced men, and those who have been appointed are new men who do not know the business as did those who resigned.

Mr. COX. Yes; I had some experience in that myself in my own district last year. A man with 12 years' experience resigned; he let his year go by with the civil service, but he finally came to the conclusion that he had been getting better wages in this line of work than he could get in any private employment. I went from the Civil Service Commission to the Agricultural Department, and even to the President of the United States, trying to get him to issue an Executive order turning him back into the service. I could not do it, because they had already filled his place.

Mr. BUCHANAN of Illinois. Will the gentleman yield?

Mr. COX. Yes.

Mr. BUCHANAN of Illinois. Does not the gentleman know that there has never been a period of time when the laboring man since 1800 has made an effort for reduced hours of labor or increased pay, but that the argument is made that there are always men ready to take their places?

Mr. COX. I can not yield for a speech. As to what effect an automatic promotion is going to have in the Agricultural Department, what are you going to do with the Forestry Bureau? Why do not you automatically increase their salaries? I undertake to say that scores of men are working in much more dangerous places than are these inspectors mentioned here. I undertake to say that the records will show that by far a larger number of men working in the Forestry Bureau have lost their lives than have lost their lives working in this line. Why do you not automatically promote their salaries? Take the Bureau of

Markets, a great department doing a splendid work. As I recall now, we gave it something like a $500,000 appropriation. Why do not you provide for automatic increases of their salaries? Oh, you say, one reason why they ought to have the increase is because of the necessary transfer from one section of the country to another, and that their employment is such as to make it uncertain how long they will be occupied in the new assignment. How about the forestry employees? They are transferred all over the West from one place to another, and they can not tell from one day to another where they are going to be the next. How about the employees in the Bureau of Markets?

They can not tell from one day to the next where they are to be transferred. And how about the employees in the Bureau of Soils? They can not tell from one day to the next where they are going to be detailed for work. So, when you follow this argument that because of the uncertainty and tenure of their domicile their salaries ought to be increased—when you follow it to the last analysis—it has not a leg on which to stand. There is no merit in it. Now, the fathers of this bill I do not think are very numerous even on the Agriculture Committee. That is my candid judgment about it. They say they ought to have this increase because the new Army bill gives to the Army veterinarians rank and commission up to major, with pay and allowances of such office. The report goes on to say:

> The maximum pay of a major is $4,000 per annum; hence the Army veterinarian will be advanced to $4,000 per annum, with quarters, fuel, and light free. It would appear that the salary provided for in this bill for bureau veterinarians is reasonable, especially so since the veterinarians provided for in this bill do not have quarters, fuel, and light furnished free.

Because the veterinarian in the Army gets $4,000 a year, and because he gets fuel and light free—in my opinion too much, but that is the law—they say here that the veterinary inspector in the meat department ought to have $2,400 also. There is a loophole and a provision in the bill whereby, if they can bring the proper pressure to bear upon the Secretary of Agriculture later on, they may be able to go to $4,000 per year. Mr. Chairman, as I said, I do not want to appear to be too vehement against this bill, but I am constitutionally opposed to it. I am going to ask my Democratic friends whether or not they can vote for this bill, which will deliberately reach into the Treasury of the United States and take out of it $309,000 the first year? As my friend from Texas said, no one has undertaken to say what it is going to cost from that time on, and the committee was very modest in undertaking to explain away that point.

The committee says that it is impossible to secure an accurate estimate as to what it would cost for the second, third, and fourth years. I quite agree with them that it is impossible, and yet it does seem to me that the Agricultural Department, provided with all of its experts, with all of its men who know how to follow this legislation out to its last analysis, ought to be able to say to the committee how much it will cost the second year. It is believed that the additional appropriation annually would be approximately $300,000, they say. They say that these figures are based on the number of employees in the service on June 1, 1916, to be affected by this bill.

To repeat, no friend of this bill has undertaken to say, and I undertake to say no one will undertake to say later on, how much this bill is going to cost the second year, how much it will cost the third year or the fourth year; but we do know that the veterinary inspector's salary is increased from $1,400 to $2,400 per year at the rate of $100 per year, and that when they reach the salary of $2,400 per year they then have reached only the minimum salary. This much we do know, that the bill provides that the lay inspectors of grade 2 shall start at $1,000 per year, and that they shall be increased $100 per year until their minimum salary is reached, amounting to $1,800 per year. We do know that the lay inspectors of grade 1 start at a salary of $840 per year and increase at the rate of $100 per year until the minimum salary reaches $1,540 per year, and then the lay inspectors of grade 1 have been exceptionally cared for. They want to give them just a little bonus, and they have crowded an extra hundred dollars in if they are extra good men, because section 4 provides that after an additional year's satisfactory service the minimum salary shall be increased to $1,600 per annum. That is lay inspector No. 1. If he is a good boy down there and is obedient and stands in and has the right kind of a pull, he has a chance to get an additional $100 over and above his $1,540 per year. Where is this increase in salary going to stop?

I have observed floating around through the newspapers the last three weeks different proposals as to where we are going to get the money to pay these enormous appropriations. I have observed in the press that some men high in the councils of our party were possibly figuring on putting a duty on coffee, tea, and wool and things like that; but so sure as the night follows the day there will be absolutely no escape if we go on making these increased appropriations, increasing these salaries, from the fact that we will have to tax tea and wool and coffee or something else, because there is no escape from it, or be put in the ridiculous attitude, in the pitiable aspect, in time of peace with all the world, of the Government being compelled to issue bonds or certificates of indebtedness.

Mr. Chairman, all through my life economy has been a revenue producer. If I had not practiced economy I would have been in the poorhouse a long time ago, because I never was able to earn very much money. Every time I found that I was not earning enough to live on I began to cast about with a view of seeing whether or not I could not economize somewhere. I think that is a pretty safe principle for a legislative body, charged with the responsibility of collecting and disbursing the revenues of the Government, to act upon. You undertake to save a million dollars and you are met with the argument that it is bound to be expended and that the Government will be ruined if it is cut off. You undertake to save $100,000 and you are met with the argument again that it is too small to fool with and that there is no use in paying attention to it. I have heard men privately say, Members of the House, that because we are called upon to spend tremendous sums for the Army and the Navy they are in favor of letting the boys out in the country get some of the money; that they are perfectly willing, if we vote these appalling sums for the Army and Navy, to increase the salaries of the Government employees, so that they may get something out of it.

That argument is unsound; it has no basis on which to stand at all. If the increase in the Army and Navy is wrong, let us stand up and vote against it. If it is right, let us stand up and vote for it; but let us not undertake to justify our votes upon these increases of salaries, forsooth, because everything is going to the Army and Navy.

Now, Mr. Chairman, I have detained this committee longer than I anticipated. This bill ought not to pass. It has no merit in it. It can not be defended upon any ground whatever, except the bare ground that it is a salary grab pure and simple. When any Members of the House want to vote for this legislation, let them do it with their eyes wide open that it is a salary grab, because no Member of the House has yet and no member of the committee has yet undertaken to show where, if the bill becomes a law, any better service will be given to the people as a result of it. If you want to vote it as a voluntary gift out of the Treasury of the United States, do it; but do it on that ground, because that is the only ground on which it can be maintained. [Applause.]

Mr. Chairman, I reserve the balance of my time.

Mr. DOOLITTLE. Mr. Chairman, I yield seven minutes to the gentleman from Massachusetts [Mr. GALLIVAN].

Mr. GALLIVAN. Mr. Chairman, in my judgment, this bill can be defended on the ground that its beneficiaries are not properly paid servants of the Government. As one Democrat to whom my good friend from Indiana [Mr. Cox] has appealed, I am not the least bit afraid of the future either as to myself individually or to my party. I believe that the Democratic Party not only wants a living wage for men in the Government service but it also wants men in the Government service to be properly compensated for their services. Now, I know nothing about the situation in Chicago when certain employees of this bureau were alleged to have been either incompetent or negligent when the foot-and-mouth disease broke loose in that city. Some one man, or some two or three men, may have been lax in their inspection, but for myself I am unwilling to smirch an entire service because of a laxity of one or two individuals. Let me briefly tell this committee how much work these men have done in a single year—the last year. Mr. Chairman, the American Journal of Veterinary Medicine, in its last issue, states that the United States Meat-Inspection Service certified to the wholesomeness of 11,220,948,000 pounds of meat from 61,826,324 animals during the fiscal year ending June 30, 1916. During that period this bureau condemned 380,945 animals and 738,361 parts of animals, equivalent, sir, to about 84,320,000 pounds of meat. Now, in my judgment, these figures show at a glance the far reaching and vast importance of this branch of the Federal service in conserving the health of the people of this country. I know that the department of animal industry in the Commonwealth of Massachusetts is on record as stating that it is dependent at all times on the cooperation and assistance of the veterinary inspectors in the service of the United States Department of Agriculture in the control and eradication of contagious diseases among animals, as was testified when we had in our State not so long ago an out-

break of the foot-and-mouth disease. And I want personally to take this opportunity to compliment the employees of the Federal Government on the wonderful work they did in Massachusetts in stamping out that dread disease.

Now, Mr. Chairman, the reorganization of the United States Bureau of Animal Industry in 1906 fixed the present salary rate in the bureau and had but small consideration for its phenomenal growth and the extension of its activities, and, despite what my good friend from Indiana has stated, so far as I have been able to find out no change has been made in the salary scale since it was originally adopted. Let me say to the gentleman that the Lobeck bill in its purpose does not intend to place in easy circumstances the men who come within its provisions in view of the high cost of living, but it is intended to pay these men only what they deserve and to remedy something wrong which has existed too long.

With a 10-year-old salary basis, such as obtains to-day, you will readily realize that men performing such tasks and under such conditions as do the employees of this bureau certainly deserve a better rate of compensation. Other men, with less preparation and ability, in other walks of life, with nowhere near similar responsibility, generally receive compensation far in excess of the maximum salaries paid to these inspectors. For instance, the wages of the men employees of the various packing houses have been increased from 30 to 50 per cent for a nine-hour day, with extra compensation for overtime; yet the Government inspectors in the same establishments actively engaged in the most arduous and revolting kind of work very often work 12 hours per day without extra remuneration. This applies also to holidays and Sundays, and, in my judgment, some relief from the present condition of affairs is absolutely imperative. Salary promotions to these men have been few and irregular, and resignations of experienced men who enter other employment at a higher compensation have been many and are increasing.

To my own knowledge the men of the Boston branch have been working long hours in the packing houses in order that the tax-paying public may have its wholesome meats. I believe that the vast importance of this inspection service in conserving the health of our people is hardly realized.

Mr. Chairman, the Paymaster General of the United States Navy is on record as stating that the work of these men has been consistently excellent and that through their efforts the quality of foods delivered to the Navy has been materially improved, resulting not only in the Government getting better value for its money but in the men getting better food. Let me say, Mr. Chairman, that it is universally conceded among those who ought to know that the spirit of avarice existing at all times is held in check by these inspectors, and unscrupulous contractors are prevented from foisting deteriorated food products on the personnel of our Army and Navy.

I can not conceive that the beneficiaries of this proposed legislation are about to wallow in wealth if granted these increases. In my judgment, they will still be compelled to curtail their living expenses, even if this bill should pass. I ask the Democrats in this House to stand up for these faithful, hard-working, long-suffering employees of the Government. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. GALLIVAN. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts? [After a pause.] The Chair hears none.

Mr. COX. How much time is there remaining, Mr. Chairman?

The CHAIRMAN. The gentleman from Indiana has 25 minutes and the gentleman from Kansas [Mr. DOOLITTLE] has 21 minutes remaining.

Mr. COX. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. BLACK].

Mr. BLACK. Mr. Chairman, I do not expect to use much time in discussing this measure, but I rise to oppose it. It seems to me to be quite clear that it ought not to pass at this time. I have no disposition to take anything at all from the praise which the gentleman from Massachusetts [Mr. GALLIVAN] has bestowed upon these employees of the Federal Government. I desire to say that they are rendering a very efficient and very useful service. But during this week in the agricultural appropriation bill, this House granted all of them who receive a salary of less than $1,200 a year an increase of 10 per cent, and all of them who receive over that up to $1,800 per year we granted an increase of 5 per cent. And here to-day we are presented with a measure that would give the veterinary inspectors an automatic increase in addition to this increase put on the Agricultural appropriation bill of $100 per year up to that point where they would be receiving $2,400 per year. And it seems to me that the Federal Treasury and the revenues in prospect for the next fiscal year are not in condition for such a display of generosity as that. I think that the membership of this House, both Democrats and Republicans, ought to show some tendency toward economy, and I do not think that a bill of this kind, taking into consideration the increases that have already been granted in the Agricultural appropriation bill, ought to be adopted by this House. As a Member of this body I have no criticism to direct at the employees of the Federal Government. I dare say that they, as a general rule, render efficient service and for the most part are earning the salaries which they receive. But I do sincerely believe that they are receiving on an average fully as much as the same grade of employment is receiving in others walks and avocations in this country. Yes, I will go further than that and will make bold to say that the statistics will show that in many cases they fare much better than the same class of employment in private life.

We are continually hearing the expression "Back to the farm." We are continually confronted with the question, "Why is it that our bright young men leave the farm and go to the towns and cities and enter industrial pursuits and mercantile pursuits and professional callings instead of agricultural vocations?" I noticed in a paper one day this week, under the head of "Things that we dislike to know," this little statement, that "the lure of the city to the farm boy is greater than the lure of the farm to the city boy." That is unmistakably true, and one reason for it is because the salaries and the remuneration in the mercantile pursuits, in the clerical pursuits, in the industrial pursuits, and in the professions, on an average, is much better than can be obtained on the farm. There is no use to try and dodge the facts. What I have said is so. And I say that it is time we were waking up to these conditions. But I will not prolong this discussion at this time. Mr. Chairman, I will say in closing that we owe these men mentioned in this bill fair and equitable consideration, and I believe that they are now receiving it and that now would not be an appropriate time to vote any additional increase in their salaries. [Applause.]

Mr. DOOLITTLE. Mr. Chairman, I believe we will have one more speech on this side before we finish.

Mr. COX. Then I yield the remainder of my time to the gentleman from Illinois [Mr. RAINEY].

The CHAIRMAN. The gentleman from Illinois is recognized for 20 minutes.

Mr. RAINEY. Mr. Chairman, for the first time I appear in opposition to a salary increase which has apparently been awarded by a committee after proper investigation. I have received, as all of you have received, so many communications from different sections of the United States calling my attention to this bill and to the necessity for its passage that I have at last become interested in it, and during the progress of the discussion this afternoon I have been making some calculations as to the effect of this measure upon the Treasury of the United States which the committee did not make.

We are advised in the reports filed here that there are 3,150 employees engaged in this particular work. They are known as lay inspectors, grade 1; lay inspectors, grade 2; and then the inspectors themselves, who belong to the highest grade. Promotions may be made, according to this scheme, from one of these grades to the other. These young men enter the various grades from our veterinary colleges, just as young men who are graduates of our medical colleges enter as internes our hospitals, and these young men who are graduates of our medical schools are willing to serve for a period of years almost for nothing in those hospitals in order to get the experience. And you are arranging in this bill for a graduated increase in salaries from year to year and for the ultimate promotion of all these 3,150 employees until every one of them is an inspector, drawing at least $2,400 a year?

Mr. BORLAND. Will the gentleman yield?

Mr. RAINEY. I yield.

Mr. BORLAND. I think the gentleman has overlooked this fact, that the veterinary inspectors must be graduates of a veterinary college or senior students in a veterinary college. There is no provision for promotion in the general way between lay inspectors and veterinary inspectors. It is possible a lay inspector might take the necessary scientific course and qualify himself, but he could not do so otherwise.

Mr. RAINEY. And if he did he would be entitled to these promotions which are contemplated.

Mr. BORLAND. And he should be.

Mr. RAINEY. Such a thing is possible.

Mr. BORLAND. Certainly. And possibly also he could take an examination in law or in any other science.

Mr. RAINEY. It is possible for every one of them under this bill to become inspectors, every one of these 3,150, within the next 10 years.

Mr. BORLAND. I hardly think so, because he would have to outside of his work take the scientific course, which is not——

Mr. RAINEY. Which involves studies in night schools, and there are five or six thousand young men here in Washington who are doing that very thing. I would be the last man in this House to oppose in any way the advancement of any young man. Every one of them, if he remains in the service, ought to try to advance. I am examining the effect on the Treasury of this remarkable bill in order to determine whether the Government can afford to embark on the particular enterprise outlined in the bill. A very simple analysis of this measure will show it to be the most outrageous and indefensible of all these salary grabs which are pushed here with so much enthusiasm. If this bill does not pass to-day, under the rules of this House it will not be a legislative possibility to pass it at all during the present session, and I intend to see that it does not pass to-day. By the time the next Congress convenes there may be such a sentiment aroused throughout the States against these salary grabs that a repetition of the exploits of this session will be impossible. An aroused public sentiment may even defeat in the Senate at this session the salary grabs which have already passed the House. If this result is not achieved at this session, I expect to renew the fight I am now making in the next Congress, and I may then have the assistance of Members who have heard from their constituents.

Now, assuming that these 3,150 are to be promoted to the grade of inspectors—of course, if they are pushed up, others will take their places in these lower grades—but assuming that none others do, and these 3,150 reach the grade of inspector, as the gentleman from Missouri [Mr. BORLAND] admits they may, that alone would mean a charge upon the Treasury of $7,560,000.

Now, let us assume that that is impossible. The statement is made here in the report that this bill means an increase in the first year of $300,000, and no more than that. We now appropriate for this service $3,000,000. But the report is strangely silent upon what the increase will be the second year in the charge upon the Treasury, and upon what the increase will be the third year and in future years.

Now, assuming that none of these inspectors are to be promoted from one grade to the other; assuming that there will always be in this service—and it is an impossible assumption—only 3,150 men, and that 1,250 of them will be veterinary inspectors, the exact number we have now and no more, this bill, then, in this grade of inspectors alone, assuming that there will be 1,250 and no more, until the maximum salary provided here in the second section of this bill of $2,400 takes effect, that will mean at that time an increase in the charge on the Treasury for veterinary inspectors alone of $1,250,000.

That is the ultimate maximum aimed at in this bill if no more inspectors or lay inspectors of either grade are appointed.

Now, suppose the lay inspectors of grade No. 2, 1,100 of them, stay on the job, their vacancies being filled as they resign, until they get the maximum which is promised them in this bill of $1,800 per year. We will start them in at $1,000. That is $800 more a year than they are now getting. When they get their maximum under this bill, there will be an additional charge on this account alone on the Treasury of $880,000. And the same method of computation applied to the lay inspectors of grade No. 2 reaches an equally astonishing result. The increase per annum in this grade will ultimately be $688,000. In other words, instead of an increase in the charge upon the Treasury of $300,000, if we have no more inspectors than we now have—and everybody knows we will have twice as many three or four years from now—if we have no more than we now have, when these maximum rates take effect, even if the Secretary of Agriculture does not make any of the additional promotions provided for in this bill, we will have an additional charge upon the Treasury each year on this account alone, not of $300,000 per year, but of $2,818,000. To this amount must be added the $300,000 estimated increase for the first year and the $3,000,000 we now appropriate, making a grand total for this service of at least $6,118,000.

Now, that is what this ill-considered bill means. But it is insisted that these gentlemen render a valuable service, and they do; and my friend from Massachusetts [Mr. GALLIVAN], for whom I have a high personal regard, and for whose judgment I also have great respect, called attention to the fact that these veterinary inspectors rendered most valuable service in his State in suppressing the foot-and-mouth disease. They rendered service in my State. A whole army of them quarantined the animal husbandry portion of that State and every county in it. They have never yet even discovered, any of them, singly or collectively, the germ of the foot-and-mouth disease. No animal has ever been cured that suffered from the foot-and-mouth disease, and no animal ever got well, because they killed every one of them.

Now, after quarantining the State of Illinois, and after these inspectors had finished their magnificent work in the State of Illinois, $4,000,000 worth of food animals had been killed and buried in quicklime. That is the remarkable work we got in Illinois from this branch of the pubic service. The State of Illinois paid half that expense, and the Federal Government was called upon to pay the other half of that enormous bill. They render a great service, a most valuable service; but the record they have made in the last two years does not entitle this branch of the Government service to the praise awarded to it so generously by my friend from Massachusetts.

Now, it is sought to sustain this bill upon the theory that the Civil Service Commission and the Chief of the Bureau of Animal Industry, one or both of them together, made certain promises to these young men when they entered this service; that they made certain promises to them of promotions and increases of salary. Now, let us see what those promises were and what we are doing to carry them out. According to the report filed here, an implied promise was given. But I do not admit the right of the Chief of the Bureau of Animal Industry to legislate; I do not admit the right of any bureau or commission of this Government to promise to give away the money in the Treasury. Great God! We are giving enough of it away ourselves. We do not need any help from the Civil Service Commission or Chiefs of the Bureau of Animal Industry. [Applause.] But, assuming that there is an implied promise here on the part of somebody connected with this Government to pay to these men some more money, let us see what that promise was.

Dr. Melvin states—and it is here in this report—that he promised these veterinary inspectors, if the funds appropriated for that purpose were sufficient, a maximum salary of $1,800. With that understanding he says they entered this service. He has apologized to them because he has not been able with the appropriation at his command to advance them to $1,800; at any rate, he had not so advanced them when his statement was made. But this bill not only makes good the extravagant promises of this bureau chief, but we go him $600 better. We give them in this bill, because the Chief of the Bureau of Animal Industry promised them $1,800, we make good on that promise and give them a maximum of $2,400. The Chief of the Bureau of Animal Industry promised the lay inspectors, according to this report, in grade 2, a maximum salary of $1,200 after they had served a period of years. We give them better than that, we give them in this bill not only what he says he promised them, but $600 more, making $1,800.

Mr. MADDEN. Will the gentleman yield?

Mr. RAINEY. Yes.

Mr. MADDEN. These are minimum salaries fixed in the bill.

Mr. RAINEY. The gentleman is right. I thank the gentleman. Instead of promising them $1,800, the amount they say the Chief of the Bureau of Animal Industry told them they would get ultimately, we give them a minimum of $2,400 and a maximum limited only by the blue sky itself. [Laughter.] We go through all these different grades the same way, promising them not maximums, as I stated, but minimum salaries of the amounts I have mentioned. There is nothing in this bill to limit the number of those employed in this service. No wonder they have a lobby here in Washington supporting the bill and trying to get it through. There is not a thing limiting their number and there is not a single thing limiting the salaries they will ultimately get. There is enough in the report to show what they want ultimately. They want ultimately the salary of a veterinary inspector, who ranks as a major in the United States Army—$4,000. That is the star to which they hitch their wagon. That is what they are reaching for. According to the present increase in the scope of this inspection business, the number engaged in it, by the time they get the minimum salary provided in this bill and before they get the maximum, will be many times the number now employed, and they will be formidable, indeed, in their demands on the National Treasury. When that happens we may as well assemble the representatives of all these various organizations of Government employees here in the National Capital and turn the Treasury over to them.

The alarming thing about the whole situation is the increase in the number of Government employees. It may be necessary at some time—I hope it will never be necessary—to take over the railroads of the United States and make the employees of

those railroads Government employees, with an opportunity to compel a timid Congress to increase their salaries. When that happens we might just as well turn the Government of the United States over to these salary grabbers who now collect in such alarming numbers around the Treasury of the United States.

There is a campaign being conducted throughout the United States to-day calling attention to "pork." "Cut it out; cut out the rivers and harbors; let our rivers and harbors fill up. Do not build public highways." We started on that project years and years ago before the days of the railroad. The great nations of the world have through all the centuries of the past been road-building nations; but in this country it is "pork." Do not build public buildings throughout this land. The great nations of antiquity built cathedrals and arches that did not pay a cent as they progressed in their careers, which have lasted for centuries. But this great Nation is to be denied that opportunity, because that is "pork." We must be satisfied here with the battleships that sail peaceful seas and rust out in 20 years of time. A ship costing $22,000,000 is ultimately and in a comparatively short time sold for old junk, and brings $2,000. That is not "pork." There is no "pork" in the amount you are paying industries that build these great ships for the Government. You do not even investigate that question.

But these other activities are "pork." When you go back home you can say to your constituents you are not to have a public building here to which you can point with some degree of pride, from which will float the Stars and Stripes, but we are going to increase the salaries of a couple of high-brow Government employees who live in this section; pin flags on them when they come home. That is the evidence of what this Government has done for you. We have increased their salary. Take that and be satisfied.

Now, I wish I could support these bills. It is easier at the present time when the public conscience seems deadened to support these bills than to oppose them. It is easier to vote for them than to have 100 men and more than that start out in your district announcing their opposition to you, because you have tried to protect all the taxpayers in your district. The real pork barrel to which I am trying to direct the attention of the country is this enormous salary grab participated in by 500,000 Government employees.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COX. Mr. Chairman, I suggest the absence of a quorum.

Mr. LEVER. Mr. Chairman, if the gentleman from Indiana will withhold that suggestion for a moment, it is now about 6 o'clock, and I do not see much prospect of getting this bill through to-day. I think the gentleman from Kansas would better move that the committee do now rise.

Mr. DOOLITTLE. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. ALLEN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 16060) providing for the classification of salaries of veterinary inspectors and lay inspectors (grades 1 and 2) employed in the Bureau of Animal Industry, Department of Agriculture, and had come to no resolution thereon.

HOUR OF MEETING TO-MORROW.

Mr. MOON. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow.

The SPEAKER. Is there objection?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, there will be a continuance of general debate to-morrow?

Mr. MOON. Yes. I do not know for just how long the House will order it.

Mr. STAFFORD. There will be liberal debate?

Mr. MOON. Debate is unlimited now. I do not know whether the House will agree to limit debate or not. Either way is acceptable to me.

The SPEAKER. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. LEVER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 52 minutes p. m.), in accordance with the order heretofore made, the House adjourned until to-morrow, Thursday, January 11, 1917, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting copy of a letter from the Chief of Ordnance to The Adjutant General of the Army setting forth the need of the Ordnance Department for an earlier increase in the numbers of the commissioned personnel than is carried by the national-defense act of June 3, 1916 (S. Doc. No. 667); to the Committee on Military Affairs and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting a draft of legislation for the sale of three abandoned customs boarding stations at New Orleans, La., known as the "Jump," Southwest Pass, and Pass a Loutre, said properties being no longer required for the needs of this department (H. Doc. No. 1902); to the Committee on Public Buildings and Grounds and ordered to be printed.

3. A letter from the Secretary of the Interior, transmitting report of investigations relative to school facilities for the children of the Sioux Tribes within the various Sioux Indian reservations of South Dakota and Standing Rock Reservation of North Dakota (S. Doc. No. 670); to the Committee on Indian Affairs and ordered to be printed.

4. A letter from the Secretary of the Treasury, recommending legislation for the continuance of the Bureau of War Risk Insurance until September 2, 1918 (H. Doc. No. 1903); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

5. A letter from the Secretary of Commerce, recommending amendment of estimate of appropriations under the heading "Miscellaneous expenses, Bureau of Fisheries," for maintenance of vessels for the Bureau of Fisheries for the year ending June 30, 1918 (H. Doc. No. 1904); to the Committee on Appropriations and ordered to be printed.

6. A letter from the Secretary of the Treasury, referring to a letter addressed to Congress under date of March 10 last, relative to the post office at Baltimore, Md. (H. Doc. No. 1905); to the Committee on Public Buildings and Grounds and ordered to be printed.

7. A letter from the Secretary of Labor, submitting report prepared in pursuance of section 10 of the act approved March 4, 1913, entitled "An act to create a department of labor (H. Doc. No. 1906); to the Committee on Labor and ordered to be printed.

8. A letter from the Secretary of the Treasury, recommending that authority be given to the Secretary of the Treasury to sell the old Subtreasury property at San Francisco, Cal., as said property is no longer required for the needs of the Government service (H. Doc. No. 1907); to the Committee on Public Buildings and Grounds and ordered to be printed.

9. A letter from the Secretary of the Treasury, referring to a letter addressed to Congress under date of April 17 last, wherein it was recommended that existing legislation relative to the new post office in New York City be supplemented by a provision authorizing the Secretary of the Treasury to accept a correctionary deed to the United States (H. Doc. No. 1908); to the Committee on Public Buildings and Grounds and ordered to be printed.

10. A letter from the Secretary of War, recommending that a proviso be inserted in the Army appropriation bill authorizing the construction of a machine-gun target range for the National Guard (H. Doc. No. 1909); to the Committee on Military Affairs and ordered to be printed.

11. A letter from the Secretary of the Treasury, transmitting copy of communication from the President of the Board of Commissioners of the District of Columbia submitting estimates of deficiencies in appropriations required by the District of Columbia for the service of the fiscal year ending June 30, 1917 (H. Doc. No. 1910); to the Committee on Appropriations and ordered to be printed.

12. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of the Navy submitting estimate of appropriation for the erection in the city of Washington, D. C., of a suitable memorial to John Ericsson (H. Doc. No. 1911); to the Committee on Appropriations and ordered to be printed.

13. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting an estimate of appropriation required by the War Department for the service of the fiscal year 1918 (H. Doc. No. 1912); to the Committee on Appropriations and ordered to be printed.

14. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of the Interior submitting additional estimates for the construction of two new

projects of the Reclamation Service for the service of the fiscal year 1918 (H. Doc. No. 1913); to the Committee on Appropriations and ordered to be printed.

15. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of the Navy submitting a supplemental and additional estimate of appropriation for engineering, Bureau of Steam Engineering, for the fiscal year 1918 (H. Doc. No. 1914); to the Committee on Naval Affairs and ordered to be printed.

16. A letter from the Secretary of the Treasury, submitting amended and additional estimates of appropriations for Bureau of Engraving and Printing for the fiscal year 1918 (H. Doc. No. 1915); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. DOREMUS, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 19067) to authorize aids to navigation, and for other works in the Lighthouse Service, and for other purposes, reported the same with amendment, accompanied by a report (No. 1272), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. McCLINTIC, from the Committee on the Public Lands, to which was referred the bill (S. 5716) to establish the Mount McKinley National Park, in the Territory of Alaska, reported the same without amendment, accompanied by a report (No. 1273), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BLACKMON, from the Committee on the Post Office and Post Roads, to which was referred the joint resolution (H. J. Res. 318) authorizing the Postmaster General to provide the postmaster at Lamar, Colo., with a special canceling die for the Third National Convention of the Young Men's Business Associations of America, reported the same without amendment, accompanied by a report (No. 1274), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. ADAIR, from the Committee on Invalid Pensions, to which was referred the bill (H. R. 19937) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, reported the same without amendment, accompanied by a report (No. 1271), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 7120) granting a pension to Robert A. Imrie; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 11903) granting an increase of pension to Charles B. Boyd; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 15353) granting a pension to Louisa Donnelly; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17340) granting a pension to Margaret A. Weed; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17347) granting an increase of pension to William E. Meadows; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18092) granting an increase of pension to Eldie E. Sterrett; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 19488) granting an increase of pension to George Edward Blackmer; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 19614) granting a pension to Nellie P. Keliher; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (S. 4667) for the relief of James Duffy; Committee on Invalid Pensions discharged, and referred to the Committee on Military Affairs.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. DOOLITTLE: A bill (H. R. 19938) providing for the return of postal cards and post cards without payment of additional postage; to the Committee on the Post Office and Post Roads.

By Mr. ANTHONY: A bill (H. R. 19939) authorizing the Secretary of War to donate one cannon, with its carriage and cannon balls, to the city of Wathena, Kans.; to the Committee on Military Affairs.

Also, a bill (H. R. 19940) authorizing the Secretary of War to donate one cannon, with its carriage and cannon balls to the city of Nortonville, Kans.; to the Committee on Military Affairs.

Also, a bill (H. R. 19941) authorizing the Secretary of War to donate one cannon, with its carriage and cannon balls to the city of Horton, Kans.; to the Committee on Military Affairs.

By Mr. KINKAID: A bill (H. R. 19942) to provide for the construction of a dam and reservoir in the North Platte River near Guernsey, Wyo.; to the Committee on Appropriations.

By Mr. HULBERT: A bill (H. R. 19943) to appropriate $510,000 for the improvement of Newton Creek, N. Y., including Dutch Kills, Maspeth Creek, and English Kills; to the Committee on Rivers and Harbors.

By Mr. BEALES: A bill (H. R. 19944) to authorize and direct the Secretary of War to acquire, by purchase, certain lands embraced within the battlefield of Gettysburg, and making appropriation therefor; to the Committee on the Public Lands.

By Mr. RAKER: A bill (H. R. 19945) authorizing an exchange of lands between the United States and the heirs of S. G. Little; to the Committee on the Public Lands.

By Mr. BORLAND: Resolution (H. Res. 438) authorizing the printing as a House document the pamphlet entitled "Railway strikes and lockouts"; to the Committee on Printing.

By Mr. CARLIN: Joint resolution (H. J. Res. 336) extending until January 8, 1918, the effective date of section 10 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 19937) granting pensions and increases of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; to the Committee of the Whole House on the state of the Union.

By Mr. ALLEN: A bill (H. R. 19946) granting a pension to Louis Brockman; to the Committee on Pensions.

By Mr. ASHBROOK: A bill (H. R. 19947) granting an increase of pension to George M. Burns; to the Committee on Pensions.

By Mr. AUSTIN: A bill (H. R. 19948) granting an increase of pension to Albania D. Thornburgh; to the Committee on Invalid Pensions.

By Mr. AYRES: A bill (H. R. 19949) granting an increase of pension to August Grantz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19950) granting an increase of pension to Albert J. Weaver; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19951) granting a pension to Lewis S. Duckworth; to the Committee on Pensions.

Also, a bill (H. R. 19952) granting a pension to Keziah Zink; to the Committee on Invalid Pensions.

By Mr. BARNHART: A bill (H. R. 19953) granting an increase of pension to John Kinney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19954) granting a pension to Benjamin F. Sweet; to the Committee on Invalid Pensions.

By Mr. CARLIN: A bill (H. R. 19955) granting a pension to David N. Embrey; to the Committee on Pensions.

Also, a bill (H. R. 19956) granting an increase of pension to Alfred S. Mason; to the Committee on Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 19957) authorizing the appointment of George W. Brinck as second lieutenant in the Army; to the Committee on Military Affairs.

By Mr. COLEMAN: A bill (H. R. 19958) granting a pension to M. R. Smith; to the Committee on Pensions.

By Mr. DOOLITTLE: A bill (H. R. 19959) granting an increase of pension to James W. Swartz; to the Committee on Invalid Pensions.

By Mr. DOREMUS: A bill (H. R. 19960) granting an increase of pension to Lewis W. Carlisle; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 19961) for the relief of the heirs of Jacob Theiss; to the Committee on War Claims.

By Mr. FAIRCHILD: A bill (H. R. 19962) granting an increase of pension to Anna M. Moak; to the Committee on Invalid Pensions.

By Mr. FARR: A bill (H. R. 19963) granting a pension to Maud M. Smith; to the Committee on Invalid Pensions.

By Mr. FESS: A bill (H. R. 19964) granting a pension to Frank F. Randolph; to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 19965) granting an increase of pension to Martin L. Rex; to the Committee on Invalid Pensions.

By Mr. GRAY of Indiana: A bill (H. R. 19966) granting an increase of pension to Robert W. Wood; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19967) granting an increase of pension to Burton Gillaspie; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19968) granting an increase of pension to Thomas F. Chafee; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19969) granting a pension to Rosanna Raines; to the Committee on Invalid Pensions.

By Mr. GRIEST: A bill (H. R. 19970) granting an increase of pension to Elizabeth P. Bickhart; to the Committee on Invalid Pensions.

By Mr. HELVERING: A bill (H. R. 19971) granting an increase of pension to William A. Burns; to the Committee on Invalid Pensions.

By Mr. HULL of Tennessee: A bill (H. R. 19972) granting an increase of pension to James N. Davis; to the Committee on Pensions.

By Mr. KEATING: A bill (H. R. 19973) granting an increase of pension to John L. Grimes; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19974) granting a pension to Mrs. George E. McCartey; to the Committee on Pensions.

By Mr. LINTHICUM: A bill (H. R. 19975) granting a pension to George G., Werner L., and Josephine J. Hoffman; to the Committee on Pensions.

By Mr. McCLINTIC: A bill (H. R. 19976) granting a pension to Lester Longmire; to the Committee on Pensions.

Also, a bill (H. R. 19977) for the relief of the heirs of W. R. McGuire; to the Committee on War Claims.

By Mr. MAPES: A bill (H. R. 19978) for the relief of Janna Stoppels; to the Committee on Claims.

By Mr. MOORES of Indiana: A bill (H. R. 19979) granting an increase of pension to Upton J. Hammond; to the Committee on Invalid Pensions.

By Mr. MORGAN of Oklahoma: A bill (H. R. 19980) granting an increase of pension to Thomas W. George; to the Committee on Invalid Pensions.

By Mr. MORRISON: A bill (H. R. 19981) granting an increase of pension to Hiram Burroughs; to the Committee on Invalid Pensions.

By Mr. OVERMYER: A bill (H. R. 19982) granting an increase of pension to Effie A. Reynolds; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19983) granting an increase of pension to Orlin Harrison; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19984) granting an increase of pension to John A. Geiger, jr.; to the Committee on Pensions.

By Mr. PRATT: A bill (H. R. 19985) granting a pension to Byron Pierce; to the Committee on Invalid Pensions.

By Mr. RICKETTS: A bill (H. R. 19986) granting an increase of pension to Adam Gilfillan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19987) granting an increase of pension to Oliver Orn; to the Committee on Invalid Pensions.

By Mr. RUSSELL of Missouri: A bill (H. R. 19988) granting an increase of pension to Casander H. Bolen; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 19989) granting a pension to Frederick E. Ogle; to the Committee on Pensions.

Also, a bill (H. R. 19990) granting a pension to John C. Bell; to the Committee on Pensions.

By Mr. SLEMP: A bill (H. R. 19991) for the relief of Thomas Spurrier; to the Committee on Military Affairs.

By Mr. TILLMAN: A bill (H. R. 19992) granting an increase of pension to Herman G. Weller; to the Committee on Invalid Pensions.

By Mr. TINKHAM: A bill (H. R. 19993) for the relief of William J. Kerrigan; to the Committee on Military Affairs.

By Mr. TOWNER: A bill (H. R. 19994) granting an increase of pension to Benjamin B. Cravens; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19995) granting a pension to William Poland; to the Committee on Invalid Pensions.

By Mr. WOOD of Indiana: A bill (H. R. 19996) granting an increase of pension to Daniel M. Graves; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19997) granting an increase of pension to John Toliver; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19998) granting an increase of pension to Ephraim J. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 19999) granting a pension to Julia A. Gardner, widow of James R. Gardner; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ADAIR: Petition of citizens of Evansville, Ind., against all prohibition bills; to the Committee on the Judiciary.

By Mr. ANTHONY: Petition of Annette M. Herbert and others, of Kansas City, Kans., asking for certain pension legislation; to the Committee on Pensions.

By Mr. ASHBROOK: Evidence to accompany House bill 19887, for relief of James F. Lingafelter; to the Committee on Invalid Pensions.

Also, petition of Frank Verheyen and 387 other citizens of Newark, Ohio, against House bill 1896, Senate bills 4428 and 1082, House joint resolution 84, and House bill 17850; to the Committee on the Judiciary.

By Mr. AYRES: Petition of sundry citizens of the State of Kansas, favoring national prohibition; to the Committee on the Judiciary.

By Mr. BAILEY: Petition of John M. Evans, Alex Baxter, William Turnecliffe, John Truscott, D. J. Sproul, William Buzzer, George Jones, William Younkers, William Richards, William Voyce, Howard Williams, P. P. Cully, Charles Lees, S. Hulick, G. W. McCloskey, Nesbit Baxter, James T. Bray, David Hollabaugh, Charley Paul, B. C. Brown, Frank Lyson, John C. Fisher, John E. Fisher, Daniel Wagstaff, T. H. McCloskey, Joseph Moore, M. C. Lydic, W. L. Murphy, Peter Peden, Edward Charles, Thomas Lidwell, John Theys, Hugh Murphy, John Monavise, Alex Barbara, William Wilt, Frank Porch, Fred Jewitt, Thomas Stewart, L. C. Crum, G. Moond, Robert Horten, William Price, and John Parvic, all of South Fork; William Connelly and Thomas C. Cassidy, of Ehrenfeld; William Stewart and Charles Stuger, of Summerhill; David Baxter, of Portage; and Harold Kay, of Dunlo, all in the State of Pennsylvania, for an embargo on the exportation of farm products, clothing, and other necessaries of life; to the Committee on Interstate and Foreign Commerce.

Also, petition of J. C. Conrod, John Yeckley, J. W. Schade, William Joop, S. J. P. Schellig, D. R. Lantz, J. F. Bircher, M. M. Blatt, H. F. Brangord, H. I. Keirn, S. E. Ross, C. H. Ulrick, F. F. Brunell, G. W. Shellenberger, J. L. Detwiler, G. L. Richardson, Ira M. Kantner, and S. J. Long, all of Juniata; W. H. Shellenberger, G. W. Heaton, O. E. Cump, and H. C. Graham, all of Altoona; and David Coughenour, of Greenwood, all in the State of Pennsylvania, for an embargo on the exportation of farm products, clothing, and other necessaries of life; to the Committee on Interstate and Foreign Commerce.

By Mr. BRUCKNER: Petition of Daniel E. Lym, of Port Huron, Mich., in favor of special life-saving medal-of-honor bill; to the Committee on the Merchant Marine and Fisheries.

Also, petitions of sundry citizens, heartily indorsing House bill 16060, the Lobeck bill; to the Committee on Agriculture.

Also, memorial of Bronx Ærie, No. 491, Fraternal Order of Eagles, in re increase in second-class postage rates; to the Committee on the Post Office and Post Roads.

Also, petition of New York Building Managers' Association, of New York, in re coal shortage; to the Committee on Interstate and Foreign Commerce.

Also, memorial of Man-Suffrage Association, opposed to political suffrage for women, of New York, in re woman suffrage; to the Committee on the Judiciary.

Also, memorial of Empire State Society of New York, indorsing House bill 269; to the Committee on Public Buildings and Grounds.

Also, petition of Frank C. Carder, of New York City, in favor of House bill 19423; to the Committee on Military Affairs.

By Mr. CARY: Petition of Green Bay Continuation School, relative to vocational-education bill; to the Committee on Education.

Also, petition of Yahr & Lange Drug Co., of Milwaukee, Wis., against Randall rider to Post Office bill; to the Committee on the Post Office and Post Roads.

Also, petition of sundry publishing companies, against increase in postage on second-class matter; to the Committee on the Post Office and Post Roads.

Also, petition of American Federation of Teachers, relative to increase in pay of public-school employees of the District of Columbia; to the Committee on the District of Columbia.

By Mr. COADY: Petitions of citizens of Baltimore and Baltimore County, Md., against passage of prohibition bills; to the Committee on the Judiciary.

By Mr. COOPER of Wisconsin: Petition of James H. Buchard and other residents of Kenosha, Wis., asking that the Government confiscate the railroads of the country; to the Committee on Interstate and Foreign Commerce.

By Mr. DALE of New York: Petition of Brooklyn Civic Club, against modified Jamaica Bay project; to the Committee on Rivers and Harbors.

By Mr. DALE of Vermont: Petition of letter carriers and clerks of Bellows Falls, Vt., for increase of pay; to the Committee on the Post Office and Post Roads.

By Mr. DAVIS of Texas: Petition of Queen Manufacturing Co., of Chillicothe, Tex., against increase in postage on second-class matter; to the Committee on the Post Office and Post Roads.

By Mr. DOWELL: Petition of 124 post-office employees, asking increase in pay; to the Committee on the Post Office and Post Roads.

Also, memorial of Des Moines Lodge of Danish Brotherhood of America, relative to naturalization laws; to the Committee on Immigration and Naturalization.

By Mr. DYER: Petitions and memorial of sundry citizens and corporations, in reference to proposed increase in second-class postage and 1-cent postage; to the Committee on the Post Office and Post Roads.

Also, petition of John E. Conzelman, of St. Louis, in re conditions in foreign countries and suggesting method of relief; to the Committee on Foreign Affairs.

Also, petitions of sundry citizens of Missouri, in favor of 1-cent "drop" postage; to the Committee on the Post Office and Post Roads.

Also, petitions and memorials of sundry citizens and organizations, against prohibition measures now before Congress; to the Committee on the Judiciary.

By Mr. EAGAN: Petition of sundry citizens of the State of New Jersey, against prohibition bills; to the Committee on the Judiciary.

Also, petition of Commercial National Memorial Association, Flemington, N. J., favoring House bill 18721, relative to memorial to the Negro soldiers and sailors; to the Committee on the Library.

Also, memorial of the Philadelphia Committee, relative to pneumatic mail-tube service; to the Committee on the Post Office and Post Roads.

Also, petition of A. S. Wilson, of Woodbury, N. J., favoring suffrage; to the Committee on the Judiciary.

By Mr. ELSTON: Petition of citizens of Alameda County, Cal., protesting against the Belgian deportations, etc.; to the Committee on Foreign Affairs.

By Mr. ESCH: Petition of James G. Mertlik and 23 others, of La Crosse, Wis., against prohibition bills; to the Committee on the Judiciary.

By Mr. FARR: Petition of John M. Wagner, William J. Sutton, and other members of Washington Camp, No. 333, Patriotic Order Sons of America, Scranton, Pa., favoring an equitable price on food products; to the Committee on Interstate and Foreign Commerce.

By Mr. FITZGERALD: Petitions of 2,750 citizens from the State of Michigan, favoring an embargo on wheat; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of Economy Printing Co., of Chicago, Ill., favoring House bill 18986 and Senate bill 4429, excluding certain advertisements from the mails; to the Committee on the Post Office and Post Roads.

Also, petition of R. G. Jones, of Rockford, Ill., favoring vocational education; to the Committee on Education.

Also, petition of the Christian Herald and Ottawa (Ill.) Aerie, No. 798, Fraternal Order of Eagles, against increase in postage on fraternal magazines; to the Committee on the Post Office and Post Roads.

By Mr. GALLIVAN: Memorial of Boston Council of the F. O. I. F., in re foreign relations; to the Committee on Foreign Affairs.

Also, petitions of sundry publishing companies of the United States against increase in postage on second-class matter; to the Committee on the Post Office and Post Roads.

By Mr. GRAY of New Jersey: Petitions of sundry citizens of New Jersey, opposing prohibition bill; to the Committee on the Judiciary.

By Mr. HAMILTON of New York: Papers to accompany House bill 19322, granting an increase of pension to Joseph McNeight; to the Committee on Invalid Pensions.

By Mr. KAHN: Petition of J. S. Berry, grand secretary Fraternal Order of Eagles, Kansas City, Mo., against increase of postage on second-class mail matter; to the Committee on the Post Office and Post Roads.

By Mr. KELLEY: Petition of citizens of Clarkston, Mich., against passage of the Shields, Myers, and Phelan bills; to the Committee on the Public Lands.

By Mr. KING: Petition signed by Mr. W. W. Hiatt, president, and Mr. H. L. Ingersoll, secretary, of the Fraternal Order of Eagles of Galesburg, Ill., opposing section 10 of House bill 19410; to the Committee on the Post Office and Post Roads.

Also, petition signed by Mr. Bernard Deters and 350 members of Local No. 263, International Union of United Brewery Workmen, of Quincy, Ill., protesting against the passage of the following bills: House bill 18986, Senate bills 4429 and 1082, House joint resolution 84, and House bill 17850; to the Committee on the Judiciary.

Also, petition signed by J. W. Tutt, H. C. Harris, Charles H. Bauch, and John Folz, of Quincy, Ill., praying for legislation increasing salaries of custodian forces in Federal buildings; to the Committee on Appropriations.

Also, petition signed by Rev. William T. Beadles, Sergt. F. A. Hotchkiss, and Mrs. Gahllager, of the Soldiers' Home, Quincy, Ill., praying for prohibition; to the Committee on the Judiciary.

Also, petition of the Emmanual Church of Galesburg, Ill., by its pastor, praying for legislation prohibiting circulation of liquor advertising and solicitations through the United States mails; to the Committee on the Post Office and Post Roads.

By Mr. KIESS of Pennsylvania: Petition of citizens of Galeton, Pa., against House bill 18986; to the Committee on the Judiciary.

By Mr. McLEMORE: Petition of citizens of the State of Texas, against passage of any prohibition bills, etc.; to the Committee on the Judiciary.

By Mr. MATTHEWS: Petition of 42 citizens of Napoleon, Henry County, Ohio, favoring national prohibition; to the Committee on the Judiciary.

By Mr. MEEKER: Petitions of St. Louis Typographical Union No. 8, National Druggist, R. W. Boisselier, and T. P. Kidd, of St. Louis; J. G. Boden of Pine Lawn; and the Fruit Grower, of St. Joseph, all in the State of Missouri; Smith & Lamar Publishing Agents, of Nashville, Tenn; The Christian Herald, Hardware Age, and The Packer, of New York City, protesting against the amendment to the Post Office appropriation bill providing for a zone system; to the Committee on the Post Office and Post Roads.

Also, petitions of St. Louis Times, Westliche Post, St. Louis Globe-Democrat, St. Louis Republic, St. Louis Post-Dispatch, and St. Louis Star, all of St. Louis, Mo., protesting against House bill 18986, the Randall mail-exclusion bill, and also to the *rider* to the Post Office appropriation bill providing for a zone system; to the Committee on the Post Office and Post Roads.

Also, petition of Coopers' International Union, Local 37, of St. Louis, Mo., against all prohibition bills; to the Committee on the Judiciary.

By Mr. MOORES of Indiana: Petition of 644 citizens of Indianapolis, Ind., against passage of House bill 18986; to the Committee on the Judiciary.

By Mr. PATTEN: Petition of Retail Liquor Dealers' Association against prohibition in the District of Columbia; to the Committee on the Judiciary.

By Mr. PLATT: Petitions of sundry citizens against prohibition bills now before Congress; to the Committee on the Judiciary.

By Mr. PRATT: Petition of 66 voters in the Methodist Church of Elmira, N. Y., by William Windnagle, president of the board of trustees, favoring prohibition in the District of Columbia and national constitutional prohibition; to the Committee on the District of Columbia.

Also, petition of Elmira (N. Y.) Printing Pressmen and Assistants' Union, No. 187, Joseph W. Mann, secretary, and Gus Bacon, president; also T. J. Wagstaff, of Pulteney, N. Y., protesting against the passage of House bill 18986 and Senate bill 4429 as vitally affecting the printing business; to the Committee on the Post Office and Post Roads.

Also, petition of Roy E. Bartholomew, F. L. Cary, and 58 other citizens of the town of Horseheads, county of Chemung, in New York State, protesting against the use of the United States mail by liquor interests for advertising purposes; to the Committee on the Post Office and Post Roads.

Also, petition of W. T. Henry, John Huff, Seth Winner, J. J. Fennell, L. Hoffman, and 41 other citizens and voters of Elmira, N. Y., re prohibition in the District of Columbia and national constitutional prohibition; to the Committee on the District of Columbia.

Also, petition of Riverside Methodist Episcopal Church, of Elmira, N. Y., with a membership of over 350, by Rev. George E. Hutchins, pastor, favoring prohibition in the District of Columbia, national constitutional prohibition, and legislation to exclude liquor advertisements and solicitations from the mails; to the Committee on the Post Office and Post Roads.

Also, petition of 200 voters of the First Methodist Church of Elmira, N. Y., through Dewitt S. Hooker, favoring District of Columbia prohibition, national constitutional prohibition, and all other bills which would restrict the liquor traffic; to the Committee on the District of Columbia.

Also, petition of 125 voters of the Disciples' Church, of Elmira, N. Y., by A. L. Streeter, official board chairman, favoring prohibition in the District of Columbia and national constitutional prohibition; to the Committee on the District of Columbia.

By Mr. ROWE: Memorials of the City Club, of New York; Hogan & Son, of New York; the Rotary Club, of New York; and the Christian Intelligencer, of New York, in re changes in existing postal law; to the Committee on the Post Office and Post Roads.

Also, memorial of Cigar Makers' International Union of America, Local Union, No. 132, of Brooklyn, N. Y., opposing nation-wide prohibition; to the Committee on the Judiciary.

By Mr. SLAYDEN: Petition of citizens of Bexar County, Tex., protesting against certain prohibitory legislation; to the Committee on the Judiciary.

By Mr. STINESS: Petitions of Local Unions Nos. 245 and 166, United Brewery Workmen; Teamsters and Chauffeurs' Union, No. 180; and Bartenders' Union, No. 285, all of Providence, R. I., against prohibition bills; to the Committee on the Judiciary.

By Mr. TREADWAY: Petition of Sundry citizens of Berkshire, Mass., for suffrage amendment; to the Committee on the Judiciary.

Also, petition of citizens of Holyoke, Mass., favoring national prohibition; to the Committee on the Judiciary.

By Mr. WM. ELZA WILLIAMS: Petition of citizens of Quincy, Ill., relative to prohibition bills; to the Committee on the Judiciary.

SENATE.

THURSDAY, *January 11, 1917.*

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we thank Thee that amidst the pressing cares that are constantly presented to us, taking our attention and our labor, Thou dost still keep alive within us a spark of life Divine. While much of our thought is held within the boundaries of space and time, there are yet aspirations and hopes that reach out toward God, and powers within us that reason of soul, and immortality, and freedom. We bless Thee that Thou dost lead us on; that Thy Spirit still abides with us. We pray that we may measure up to God's great object and purpose in our Government and in our individual life to establish righteousness among the people. For Christ's sake. Amen.

The Journal of yesterday's proceedings was read and approved.

CALLING OF THE ROLL.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Bryan	Clark	Fernald
Bankhead	Chamberlain	Culberson	Fletcher
Brady	Chilton	Curtis	Gallinger
Brandegee	Clapp	Dillingham	Gronna
Harding	Lodge	Robinson	Sutherland
Hitchcock	McCumber	Saulsbury	Swanson
Hollis	McLean	Shafroth	Thomas
Hughes	Martine, N. J.	Sheppard	Tillman
Husting	Myers	Sherman	Townsend
Johnson, Me.	Nelson	Simmons	Vardaman
Johnson, S. Dak.	Norris	Smith, Ariz.	Wadsworth
Jones	Oliver	Smith, Ga.	Walsh
Kenyon	Overman	Smith, Mich.	Watson
Kern	Page	Smith, S. C.	Williams
Kirby	Poindexter	Smoot	Works
Lane	Ransdell	Sterling	
Lea, Tenn.	Reed	Stone	

Mr. VARDAMAN. I have been requested to announce that the senior Senator from Tennessee [Mr. SHIELDS] is detained from the Senate on account of illness, and also that the junior Senator from Kentucky [Mr. BECKHAM] is detained on account of official business.

Mr. CHILTON. I wish to announce, and let the announcement stand for the day, that my colleague [Mr. GOFF] is absent on account of illness.

Mr. WALSH. The Senator from Maryland [Mr. LEE] is absent on account of illness.

Mr. MARTINE of New Jersey. I rise to announce the absence of the Senator from Oklahoma [Mr. GORE] owing to illness.

The PRESIDENT pro tempore. Sixty-six Senators have answered to their names. There is a quorum present.

NOMINATION OF WINTHROP M. DANIELS.

Mr. CLAPP. Mr. President, I desire to call attention to the fact that the RECORD of yesterday's proceedings does not state the announcement of the Senators who announced their pairs as to how they would vote if they were not paired. A number of Senators—and I was one of the number—announced how they would have voted had they been free to vote. I think the RECORD should be corrected to show those announcements.

The PRESIDENT pro tempore. The Chair thinks that any correction of the publication regarding the executive session should be made in executive session.

Mr. CLAPP. I make it in open session. Others may make it in executive session if they desire.

Mr. NORRIS. It was ordered that the roll call should be published in the RECORD. If the roll call as published is not right in the announcement of the pairs, the correction, I should think, ought to be made in open session, where it was ordered that the record should be published.

The PRESIDENT pro tempore. Is there objection to a correction of the RECORD as requested by the Senator from Minnesota?

Mr. MARTINE of New Jersey. I should like not only to correct the Senator's position, but I should like to correct my own.

Mr. CLAPP. I called attention to the entire matter and asked that the RECORD be corrected to show how each one stated he would vote if not paired.

The PRESIDENT pro tempore. The Chair thinks a matter of this sort should properly be discussed first in executive session. The Chair is informed that it is impossible for the clerks at the desk to take down in executive session the statements made by Senators of their position, because they are not prepared in executive session to do that.

Mr. CLAPP. Mr. President, then I rise to a question of personal privilege.

The PRESIDENT pro tempore. The Senator will state it.

Mr. CLAPP. I ask that the RECORD show that on the roll call referred to, on page 1248, proceedings of January 10, when my name was called, I announced that if at liberty to vote I would vote "nay." I make this statement because the Senate in executive session voted that the record be printed in the permanent RECORD of the Senate.

The PRESIDENT pro tempore. The Chair in justice to the clerks will state that the order as stated to the Chair was that the vote and the pairs be printed in the RECORD, and the RECORD seems to comply with the order.

Mr. CLAPP. I would not for a moment be understood as reflecting upon the action of the clerical force. I ask, as a matter of privilege, that the RECORD be corrected.

Mr. MARTINE of New Jersey. Mr. President, I ask that in my own case, similar to that referred to by the Senator from Minnesota, the RECORD may be corrected. I gave the reasons, and stated that if I had the opportunity I would vote "nay." I should like to have the RECORD corrected in my case. I have no doubt the clerks did all that they understood it was their duty to do at the time.

Mr. NORRIS. I should like to make the same correction, although I can not do it as a matter of personal privilege, because the announcement I made was for an absent Senator. I